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**Title 11. DEPARTMENT OF JUSTICE**  
**Notice published May 24, 2019**

**NOTICE OF PROPOSED RULEMAKING ACTION**

**MAJOR LEAGUE SPORTS RAFFLE PROGRAM**

NOTICE IS HEREBY GIVEN that the Department of Justice (Department) is proposing to permanently adopt emergency regulation amendments described below after considering all comments, objections, and recommendations regarding the proposed action. The proposed action is to make permanent, with changes, the emergency regulations approved on December 31, 2018 concerning the Department's Major League Sports Raffle Program (MLSRP). Comments, objections, and recommendations may be submitted as follows:

**PUBLIC HEARING**

No public hearing has been scheduled for the proposed regulatory action; however, any interested person, or his or her duly authorized representative, may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8.

**WRITTEN COMMENT PERIOD**

Any interested party, or his or her duly authorized representative, may submit written comments relevant to the proposed regulatory action to the contact person(s) listed below at any time during the 45-day public comment period, which closes at 5:00 p.m. on July 10, 2019. Written comments relevant to the proposed regulatory action may be sent by mail, facsimile, or e-mail, directed to:

Susanne George, Regulations Coordinator  
California Department of Justice  
Bureau of Gambling Control  
P.O. Box 168024  
Sacramento, CA 95816-8024  
E-mail: [Susanne.George@doj.ca.gov](mailto:Susanne.George@doj.ca.gov)  
916-830-9032

To be eligible for consideration, all written comments must be received by the Bureau of Gambling Control at its office no later than 5:00 p.m. on July 10, 2019. Comments sent to persons and/or addresses other than those specified below under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed rulemaking, but will not be summarized or responded to regardless of the manner of transmission.

**AUTHORITY and REFERENCE**

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Authority: Penal Code section 320.6.

Reference: Penal Code section 320.6.

**SUBJECT MATTER OF PROPOSED REGULATORY ACTION**

Bureau of Gambling Control, Major League Sports Charitable Raffle Program

**EMERGENCY REGULATIONS TO BE PERMANENTLY ADOPTED**

Title 11, sections 2084, 2086, 2088, 2089, 2090, 2092, 2095, 2097 and 2107.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

**Summary of Existing Laws and Regulations:**

In 2015, the Legislature enacted Penal Code section 320.6, which authorizes 50/50 raffles at major league sports home games by eligible organizations, an activity that was previously prohibited under state law. As authorized, 50 percent of the gross receipts generated from the sale of raffle tickets must be used to benefit or provide support for beneficial or charitable purposes, and the other 50 percent must be paid to the winner, which is determined by a manual draw.

Before conducting 50/50 raffles, eligible organizations and manual draw supervisors affiliated with eligible organizations must first register annually with the Department. (Pen. Code, § 320.6, subd. (o)(1)(A).) In addition, before conducting business with an eligible organization, raffle vendors that manufacture or distribute raffle-related products or services must also register annually with the Department. (Pen. Code, § 320.6, subd. (o)(2)(A).)

As first enacted, Penal Code section 320.6 had a sunset date of December 31, 2018. In 2018, the Legislature enacted urgency bill AB 888, extending the sunset date to January 1, 2024. AB 888 also changes the reporting requirements applicable to eligible organizations and increases minimum registration fees the Department may impose on participants in the program to fully offset its reasonable costs to administer and enforce the charitable raffle program.

Permanent adoption of these regulation amendments will implement the provisions of Penal Code section 320.6, as amended by Assembly Bill 888. The regulation amendments will increase program fees on a permanent basis, revise program forms, and incorporate statutory changes to reporting requirements.

Prior regulations in effect before the adoption of the emergency regulation amendments imposed registration fees that were insufficient to cover the costs of administering the charitable raffle program. Prior registration fees were also rendered invalid by the passage of AB 888 because they became less than the statutory minimum. The Department's ability to administer and enforce the charitable raffle program is contingent upon the appropriation of sufficient funds. The Department will not have the ability to generate revenue from registration fees to offset the costs of the charitable raffle program unless the fee amounts in the emergency regulations are permanently adopted. The structural imbalance of the program caused by the previously lower

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fees has severely limited the Department's ability to conduct appropriate oversight of the participants in the program to ensure raffles are held in accordance with the statute.

Since its inception, the charitable raffle program has generated millions of dollars of revenue for charitable organizations in the state. Increased transparency and appropriate oversight of participants in the raffle program will create greater trust in the integrity of 50/50 raffles, which may lead to an increase in raffle events and ticket sales. A higher participation rate in the program and resulting increases in raffle proceeds will benefit charitable organizations throughout the state that are beneficiaries of the raffle proceeds.

**Effect of the Proposed Rulemaking:**

The effect of the proposed rulemaking is to make permanent with changes the emergency regulations adopted effective December 31, 2018. Permanent adoption of the regulation amendments will create a fiscally sound program where revenues more closely align with expenditures. The new fee increases will fully offset the Department's costs not just to administer the program, but to enforce the requirements of the program. The regulation amendments will also incorporate statutory changes to reporting requirements.

**Comparable Federal Regulations:**

There are no existing federal regulations or statutes comparable to the proposed regulations.

**Policy Statement Overview and Anticipated Benefits of the Proposed Regulations:**

The proposed action is to make permanent, with changes, the emergency regulation approved on December 31, 2018, by the Office of Administrative Law concerning the Department's MLSRP. The changes to the emergency regulation are those which were not specifically related to the emergency but are necessary due to changes in statute as a result of the enactment of AB 888. The proposed action is to amend sections 2084, 2086, 2088, 2089, 2090, 2092, 2095, 2097 and 2107 within Article 8, Chapter 1, Division 3, Title 11 of the California Code of Regulations.

This proposed action will provide the regulated community with updated forms reflecting the new fee amounts; direction to fiduciaries of eligible organizations related to the posting of information; and, new raffle reporting parameters outlined in statute. The constituents of the state will benefit from having more access to information posted by the eligible organizations about the raffles conducted in the MLSRP.

If organization and vendor registrations remain consistent with those in previous years, the revenue generated through the increased fee structure is anticipated to be sufficient to cover the Department's costs for the implementation, administration, audit, and compliance activities related to MLSRP. However, in the event that revenues received from fees collected pursuant to statute and regulation are insufficient to fully offset the Department's costs to implement the MLSRP, the Department will have to address staffing levels, adjust fees, or seek other funding sources.

**Determination of Inconsistency/Incompatibility with Existing State Regulations:**

The Department has evaluated this proposed rulemaking and determined that it is not inconsistent or incompatible with existing state regulations relating to or affecting the charitable raffle program.

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**Forms Incorporated by Reference:**

The Department also proposes to amend the following forms which are incorporated by reference in the regulations to implement the new fee structure and make the forms consistent with statute as amended by AB 888:

- Major League Sports Raffle Eligible Organization Annual Registration Form (BGC 200; Rev. 10/2018)
- Major League Sports Raffle Manufacturer and Distributor of Products or Services Annual Registration Form (BGC 201; Rev. 10/2018)
- Major League Sports Raffle Manual Draw Supervisor Annual Registration Form (BGC 202; Rev. 10/2018)
- Major League Sports Raffle Eligible Organization Raffle Report (BGC 203; Rev. 10/2018)
- Major League Sports Raffle Eligible Organization Registered Event Registration Form (BGC 204; Rev. 10/2018)

**Mandated by Federal Law or Regulations:**

There are presently no federal statutes or regulations on the topic to the proposed action.

**Other Statutory Requirements:**

None.

**DISCLOSURES REGARDING THE PROPOSED ACTION**

DOJ has made the following initial determinations:

Mandate on Local Agencies and School Districts: None.

Cost to any Local Agency or School District: None.

Cost or Savings to any State Agency: If organization and vendor registrations mirror those in 2018, the anticipated revenue from the proposed fee increase will increase the Department's revenue from \$186,000 to approximately \$1,334,000 per fiscal year to offset costs incurred to administer and enforce the charitable raffle program. No other fiscal impact exists. However, in the event that revenues received from fees collected pursuant to statute and regulation are insufficient to fully offset the Department's costs to implement the MLSRP, the Department may have to address staffing levels, adjust fees, or seek other funding sources.

Other Non-Discretionary Cost or Savings Imposed on Local Agencies: None.

Cost or Savings in Federal Funding to the State: The Department has determined that the proposed regulatory action would not create costs or savings to any State agency or in federal funding to the State, costs or mandates to any local agency or school district, whether or not reimbursable by the State pursuant to Gov. Code, Title 2, Division 4, Part 7 (commencing with section 17500), or other nondiscretionary costs or savings to State or local agencies.

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Significant Effect on Housing Costs: None.

Significant Statewide Adverse Economic Impact Directly Affecting Businesses: The Department has made a determination that the proposed regulatory action would have no significant statewide adverse impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The fees and reporting requirements of the charitable raffle program only apply to a small group of eligible non-profit organizations that opt into the program in order to conduct 50/50 raffles, an activity that was previously prohibited under state law. Such raffles may only be conducted at home games of certain limited sporting events within the state. The fees affecting vendors who sell raffle-related products and services apply only if the vendor opts into the program. The primary vendors in California are headquartered out-of-state and conduct business in several other states.

Penal Code section 320.6 subdivision (o)(13) requires annual or season reporting by registered, eligible organizations. This regulation provides a form by which the registered, eligible organization can comply with this statutory mandate.

Results of the Economic Impact Analysis/Assessment: The Department concludes that it is unlikely the proposed regulation amendments will affect (1) the creation or elimination of permanent jobs within California; (2) the creation of new businesses or the elimination of existing businesses within California; (3) the expansion of businesses currently doing business within California. This assessment is based on the limited scope of organizations participating in the charitable raffle program.

Health and Welfare of California Residents:

The Department has determined that the proposed action will protect the health, safety, and general welfare of California residents by providing a program for which eligible organizations can generate funds through the operation of MLSRP raffles as well as the staffing necessary to ensure the integrity of the program. The revenues generated provide vital resources to nonprofit organizations supporting charitable and beneficial purposes throughout the State.

Cost Impacts on Representative Person or Business: An eligible organization, as defined in statute, which intends to obtain a registration would be subject to a minimum annual registration fee of \$14,400. Once registered, an eligible organization would be required to pay, in addition to the annual fee, \$200 for every individual raffle it intends to conduct during its registration period, per statute. Manufacturers or distributors of raffle-related products or services who intend to obtain a registration would be subject to a minimum annual registration fee of \$432,000. An eligible organization will incur costs for registration of manual draw supervisors of \$20 per person.

Business Report: Penal Code section 320.6 subdivision (o)(13) requires annual or season reporting by registered, eligible organizations. This regulation provides a form by which the registered, eligible organization can comply with this statutory mandate. It is necessary for the health, safety, or welfare of the people of the state that the regulation which requires a report apply to businesses.

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Small Business Determination: The Department has determined that the proposed regulations will affect small businesses that sell raffle-related products and services and that want to participate in the charity raffle program.

### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5 subdivision (a)(13), the Department must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

During the emergency rulemaking, the Department considered alternative fee schedules suggested by the regulated community. The alternative fee schedules proposed, however, were inadequate to cover the reasonable costs incurred by the Department for the administration and oversight of the raffle program.

### **CONTACT PERSONS**

Inquiries concerning the proposed administrative action may be directed to:

Susanne George  
California Department of Justice  
Bureau of Gambling Control  
P.O. Box 168024  
Sacramento, CA 95816-8024  
E-mail: [Susanne.George@doj.ca.gov](mailto:Susanne.George@doj.ca.gov)  
916-830-9032

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Riann Kopchak  
California Department of Justice  
Bureau of Gambling Control  
P.O. Box 168024  
Sacramento, CA 95816-8024  
E-mail: [Riann.Kopchak@doj.ca.gov](mailto:Riann.Kopchak@doj.ca.gov)  
916-830-1700

Please direct requests for copies of the proposed text (the "express terms") of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to the CONTACT PERSON at the above address.

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## **AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE**

The DOJ will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the express terms of the regulations, the Initial Statement of Reasons, any information upon which the proposed rulemaking is based on, and an economic impact assessment contained in the Initial Statement of Reasons. Copies may be obtained by contacting the name, address or phone number listed above. This Notice of Proposed Action, the text of the proposed regulation amendments (the "express terms"), the Initial Statement of Reasons, and the revised forms incorporated by reference, and any information upon which the proposed rulemaking was based are available on the Bureau's regulations page on its website at <http://www.oag.ca.gov/gambling>. Copies may be obtained by contacting Susanne George at the contact information listed below.

## **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments received, the Department of Justice may adopt the proposed regulation amendments substantially as described in this notice. If the Department makes modifications which are sufficiently related to the original proposed text, it will make the modified text available (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Copies of any modified text will be available on the Bureau's regulations page on its website at: <http://www.oag.ca.gov/gambling>. Please send requests for copies to Susanne George at the contact information listed above. The Department will accept written comments on the modified regulations, if applicable, for 15 days after the date on which they are made available.

## **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the person listed above and will be available on the Bureau's regulations page on its website at: <http://www.oag.ca.gov/gambling>.

## **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout format, as well as the Final Statement of Reasons, once completed, can be access through the Department's website at: <http://oag.ca.gov/gambling>.