Small Business Economic Impact Statement

For Repeal of Group 12 Amusement Games

Small Business Economic Impact Statement – RCW 19.85.040
Washington State Gambling Commission

February 8, 2016

Rule Proposed to be Repealed:
WAC 230-13-067 Group 12 – Electronic puzzle and pattern solving game standards.

Involvement of Small Businesses:

We filed the Code Revisor's 101 on January 28, 2016, under WSR#15-22-054.

In July 2015, the Commissioners approved Group 12 amusement games, a new category of amusement games. In approximately September 2015, Commission staff approved the first Group 12 amusement game for placement in Washington. Shortly thereafter, based on questions received from stakeholders and how the games were being operated, Commission staff determined additional rules were needed to effectively regulate Group 12 amusement games.

On November 9, 2015, we sent an email to the Class B and above amusement game licensees that we had email addresses for informing them that we had drafted rules for discussion on Group 12 amusement games. (Class B and above amusement game licensees own the amusement games they lease for operation at Class A amusement game licensees or operate the amusement games in their facility.) The letter referred licensees to our website, which the general public can access, to view the draft rules. The proposed rules were posted on our website under "Breaking News" on our home page for Group 12 amusement game updates.

On November 12, 2015, draft rules for operating, licensing, and regulating Group 12 amusement games were discussed at Study Session, which was open to the general public. Those in attendance were asked to submit any comments or rule change language to Commission staff by November 30, 2015. The rules were also discussed at the November 12, 2015 Commission meeting, also open to the public.

On December 24, 2015, we sent notice to all commercial and nonprofit amusement game licensees, Class A and above, of the updated Group 12 amusement game rule proposals based the feedback we received during the comment period. We also posted the draft rules on our website.

On January 4, 2016, Commission staff approved the second Group 12 amusement game for placement in Washington. The third and fourth Group 12 amusement games, both manufactured by the same entity, were approved by Commission staff on January 7, 2016.

The Group 12 amusement game rules were discussed at Study Session on January 14, 2016. The rules were also discussed at the January 14 Commission meeting, also open to the public.

On January 28, 2016, a Commissioner requested that staff prepare a new rules proposal to repeal Group 12 amusement games as another option available to the Commissioners, in conjunction with the other Group 12 amusement game rules packages.

The Group 12 amusement game repealer was posted on our website on February 2, 2016. Prior to that, staff reached out to the representatives of each of the three approved Group 12 amusement game manufacturers that have games approved, as well as other industry leaders, to let them know of this rules proposal.

The rule was discussed at the February 11, 2016 Study Session and Commission meeting and the March 11, 2016 Study Session and Commission meeting. In addition, the proposed repealer will be discussed at the April and May Commission meetings. The public can provide comment during the Study Session and testimony before the Commissioners at the Commission meeting.

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1. Description of the reporting, record keeping and other compliance requirements of the proposed rule.

This rules package would repeal Group 12 amusement games in the state. As of this date, we have approved four Group 12 games from three manufacturers. As of January 11, 2016, there were 204 Group 12 amusement games placed in about 80 licensed locations. As of February 10, there were over 400 Group 12 amusement games placed in at least 280 locations.

If this rules package were approved, all of these amusement games would have to be removed from the state by the effective date. The Group 12 amusement games that are currently in the state could be sold to businesses in other states where the amusement games are allowed. Those that are leased from manufacturers would have to be returned to the manufacturers.

2. Kinds of professional services that a small business is likely to need in order to comply.

Small businesses may need to consult an attorney if they have entered into any type of a contract or an agreement for Group 12 amusement games. They may also need to consult with someone to help them sell and ship any Group 12 amusement games to a jurisdiction where they are allowed.

3. The actual costs to small businesses of compliance, including costs of equipment, supplies, labor and increased administrative costs.

We do not have sufficient information to determine the actual costs to small businesses if Group 12 amusement games were no longer authorized. However, we have had a 14% increase in the number of commercial and charitable, nonprofit amusement game licensees from August 1, 2015 through January 31, 2016. (82 more Class A and 5 more Class B amusement game licensees during this period.) As of January 11, 2016, about 80 licensees had at least one Group 12 amusement game in their facility. As of February 10, at least 280 licensees had at least one Group 12 amusement game in their facility.

Anecdotally, two licensees that have purchased Group 12 amusement games state they have spent approximately $230,000. Other licensees have purchased or leased the Group 12 amusement games, but we do not know those costs because licensees are not required to report these costs to us. A manufacturer stated they spent about $100,000 on research and development to manufacture the amusement games to meet Washington requirements.

Four amusement game licensees have stated that they will incur a combined estimated loss of $9 million if Group 12 amusement games were repealed. This estimated loss includes such costs as the actual amusement game purchase and lease costs, research and development, license and identification stamp fees, and four-year lost revenue projections for the amusement game contracts currently in place.

Distributors who purchased the amusement games may be able to be mitigate their loss by selling the amusement games to businesses in jurisdictions where they are allowed.

4. Whether compliance with the rule, based on feedback received from licensees, will cause businesses to lose sales or revenue.

The first amusement game was approved on September 23, 2015. Compliance with the proposed rule will cause businesses to lose sales or revenue, as they would have to stop selling and/or operating Group 12 amusement games. Based on information provided by licensees, the estimated lost revenue is unknown at this time, but it could include the costs described above. Some licensees report possible lost sales or revenues totaling approximately $9 million should this rule be repealed.

5. A determination of whether the proposed rule will have a disproportionate impact on small businesses.

We do not know which or how many of our 745 amusement game licensees as of January 31, 2016, will be impacted by the repeal of Group 12 amusement games. We do not

distinguish between whether a business is getting a license to operate a Group 12 amusement game or Groups 1 through 11 upon licensure. However, given that we have seen a 14% increase in overall amusement game licenses issued from August 1, 2015 through January 31, 2016, it is estimated that 12 to 14% of amusement game licensees would be impacted.

Because we do not know which licensees have Group 12 amusement games, we cannot determine if there will be a disproportionate impact to small businesses with the proposed repeal of Group 12 amusement games.

6. Steps taken by the agency to reduce the costs of the rule on small businesses or reasonable justification for not doing so. Agencies "must consider, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:"

Repeal of Group 12 amusement games would apply to all businesses equally, as they would not be able to operate these games.

Class A and B amusement game licensees that may have gotten a license to have Group 12 amusement games can still use their license for the remainder of their license year for Group 1 through 11 amusement games.

a. **Reducing, modifying, or eliminating substantive regulatory requirements;**

Repeal of Group 12 amusement games would apply to all businesses equally, as they would not be able to operate these games.

Class A and B amusement game licensees that may have gotten a license to have Group 12 amusement games can still use their license for the remainder of their license year for Group 1 through 11 amusement games.

b. **Simplifying, reducing, or eliminating recordkeeping and reporting requirements;**

Repeal of Group 12 amusement games would apply to all businesses equally, as they would not be able to operate these games.

Class A and B amusement game licensees that may have gotten a license to have Group 12 amusement games can still use their license for the remainder of their license year for Group 1 through 11 amusement games.

c. **Reducing the frequency of inspections;**

Repeal of Group 12 amusement games would apply to all businesses equally, as they would not be able to operate these games.

Class A and B amusement game licensees that may have gotten a license to have Group 12 amusement games can still use their license for the remainder of their license year for Group 1 through 11 amusement games.

d. **Delaying compliance timetables;**

Repeal of Group 12 amusement games would apply to all businesses equally, as they would not be able to operate these games.

Class A and B amusement game licensees that may have gotten a license to have Group 12 amusement games can still use their license for the remainder of their license year for Group 1 through 11 amusement games.

e. **Reducing or modifying fine schedules for noncompliance; or**

Repeal of Group 12 amusement games would apply to all businesses equally, as they would not be able to operate these games.

Class A and B amusement game licensees that may have gotten a license to have Group 12 amusement games can still use their license for the remainder of their license year for Group 1 through 11 amusement games.

f. **Any other mitigation techniques including those suggested by small businesses or small business advocates.**

In November 2015, when we began receiving inquiries regarding Group 12 amusement games, we notified stakeholders and told them to monitor our website for updates. We have consistently posted updated information as soon as it became available.

On approximately February 4, 2016, we began notifying all amusement game applicants that have a pending application that the Group 12 amusement game rule could possibly repealed. On February 8, 2016, we posted a notice on our website with the amusement game application notifying them of the rules that are pending. We also included the notice on all hardcopy applications that are mailed out and with each amusement game license that is mailed.

7. A description of how the Gambling Commission will involve small businesses in the development of the rule.

In July 2015, the Commissioners approved Group 12 amusement games, a new category of amusement games. In approximately September 2015, Commission staff approved the first Group 12 amusement game for placement in Washington. Shortly thereafter, based on questions received from stakeholders and how the games were being operated, Commission staff determined additional rules were needed to effectively regulate Group 12 amusement games.

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8. A list of industries that will be required to comply with the rule.

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9. An estimate of the number of jobs that will be created or lost as the result of compliance with the proposed rule.

We do not have sufficient information to determine what, if any, jobs will be lost should Group 12 games be repealed. We cannot determine the impact of jobs lost as a result of compliance with the proposed repeal of the rule because this is a new group of amusement games that was authorized in July 2015 and has only been in effect since late-September 2015, when the first game was approved. We don't have any information on the impact Group 12 games have actually had on the industry, how many new jobs (if any) were created due to authorization of Group 12 amusement games, or how many jobs might be affected by the repeal of them.