

HOUSE BILL 308

Introduced by Menahan, et al.

1/21	Introduced
1/21	Referred to Business & Economic Development
1/22	First Reading
1/22	Fiscal Note Requested
1/28	Fiscal Note Received
1/29	Fiscal note Printed
2/12	Hearing Died in Committee

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INTRODUCED BY

House BILL NO. *308*
Merahan Daily
Submit

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING AND REGULATING PUNCHBOARD AND PULLTAB GAMES; PROVIDING QUALIFICATIONS FOR A LICENSE TO MANUFACTURE OR DISTRIBUTE AUTHORIZED GAMES AND FOR A PERMIT TO OFFER GAMES TO THE PUBLIC; PROVIDING FOR A STATUTORY APPROPRIATION AND DISTRIBUTION OF REVENUE; PROVIDING PENALTIES; AND AMENDING SECTION 17-7-502, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 7] gives the department of justice authority to adopt rules. It is the intent of the legislature that rules be adopted to protect the health, welfare, and safety of the citizens of Montana and to ensure compliance with this bill.

The rules should at, a minimum:

- (1) ensure the integrity and security of punchboard and pulltab games;
- (2) provide a method of examining the qualifications of license and permit applicants;
- (3) provide for investigation procedures; and
- (4) provide a procedure for monitoring the games in play to ensure their compliance with this bill.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 13] may be cited as the "Punchboard and Pulltab Games Control Act".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 13], the following definitions apply:

(1) "Department" means the department of justice.

(2) "Distributor" means an individual, partnership, corporation, or association that sells, markets, or otherwise distributes punchboard or pulltab games.

(3) "Licensee" means an individual, partnership, corporation, or association that has been issued a license by the department.

(4) "Manufacturer" means an individual, partnership, corporation, or association that designs, assembles, fabricates, produces, constructs, or otherwise prepares a product or component part of a product that is authorized for use under [sections 1 through 13].

(5) "Permittee" means an individual, partnership, corporation, or association that has been issued a permit by the department.

(6) "Pulltab" means a folded or banded ticket or a card with a face covered to conceal one or more numbers or symbols, with one or more of each set of tickets or cards

1 designated in advance as a winner.

2 (7) "Punchboard" means a board or device containing a
3 number of holes or receptacles of a uniform size in which
4 are placed, mechanically and at random, serially numbered
5 slips of paper, some of which have been designated in
6 advance as winners, that may be punched or drawn from a hole
7 or receptacle.

8 NEW SECTION. Section 3. Licensure -- restriction. (1)

9 A person may not possess, place, manufacture, distribute, or
10 offer for play a punchboard or pulltab game unless the
11 person has a permit issued under [section 4] or a license
12 issued under [section 5].

13 (2) A person under 18 years of age may not play,
14 possess, or offer for play a punchboard or pulltab game.

15 NEW SECTION. Section 4. Retail permit qualifications

16 -- right to hearing. (1) A person who has been granted an
17 operator's license under 23-5-177 and a license to sell
18 alcoholic beverages for consumption on the premises may be
19 granted a permit by the department for offering punchboard
20 and pulltab games to the public at the licensed
21 establishment.

22 (2) A person who is denied a permit has the right to a
23 hearing before the department. The hearing must be conducted
24 in accordance with the Montana Administrative Procedure Act.

25 NEW SECTION. Section 5. Manufacturer's or

1 distributor's license -- qualifications -- right to hearing.

2 (1) It is unlawful for any person to manufacture for sale in
3 this state, sell, or distribute any punchboard or pulltab
4 game unless the person has been issued a license by the
5 department.

6 (2) An applicant for issuance or renewal of a
7 distributor's license must have been a resident of the state
8 for 30 days prior to application.

9 (3) An applicant for issuance or renewal of a
10 manufacturer's or distributor's license shall:

11 (a) apply to the department on forms prescribed by the
12 department;

13 (b) supply any information that the department
14 considers reasonably necessary to determine suitability for
15 licensure; and

16 (c) establish to the reasonable satisfaction of the
17 department that the applicant's past record and present
18 status as a manufacturer or distributor of gambling devices
19 and as a business person and citizen demonstrate that the
20 applicant is likely to conduct business in compliance with
21 all laws.

22 (4) A person denied a license has the right to a
23 hearing before the department. The hearing must be conducted
24 in accordance with the Montana Administrative Procedure Act.

25 NEW SECTION. Section 6. Fees -- use of fees --

1 expiration of license or permit. (1) The department shall
2 charge the following annual fees:

- 3 (a) for a retail permit, \$100;
- 4 (b) for a distributor's license, \$1,000; and
- 5 (c) for a manufacturer's license, \$2,000.

6 (2) A license or permit issued by the department
7 expires on the following June 30, and the fee may not be
8 prorated.

9 (3) The department shall retain the fees for the
10 purpose of administering [sections 1 through 13]. There is
11 an account in the state special revenue fund into which
12 money from the fees must be deposited. The money in the
13 account is statutorily appropriated, as provided in
14 17-7-502, to the department for the purpose of administering
15 [sections 1 through 13].

16 NEW SECTION. Section 7. Powers and duties of the
17 department. (1) The department shall adopt rules to
18 implement [sections 1 through 13] and:

- 19 (a) with respect to licenses and permits:
 - 20 (i) provide reasonable procedures;
 - 21 (ii) prescribe reasonably necessary forms; and
 - 22 (iii) grant or deny license and permit applications;
- 23 (b) with respect to the tax in [section 9]:
 - 24 (i) prescribe reasonable recordkeeping requirements for
 - 25 licensees;

1 (ii) provide a reasonable procedure for inspection of
2 records; and

3 (iii) establish reasonable penalties for the delinquent
4 reporting and payment of the tax;

5 (c) establish the design, format, and criteria that a
6 punchboard or pulltab game must meet in order to be
7 authorized for play in the state.

8 (2) The department is a criminal justice agency, and
9 designated employees are granted peace officer status with
10 the powers of search, seizure, and arrest to regulate and
11 control persons who offer or make available punchboard and
12 pulltab games.

13 NEW SECTION. Section 8. Punchboard and pulltab games
14 -- costs -- prizes. The price per ticket for a punchboard or
15 pulltab game may not exceed \$2. Each game must comply with
16 standards promulgated by the department and must award
17 prizes at a minimum of 70% of the gross value of the game.
18 All winning possibilities must be displayed.

19 NEW SECTION. Section 9. Tax -- records -- distribution
20 -- quarterly statement and payment. (1) Each licensed
21 distributor of punchboard and pulltab games shall:

22 (a) collect, at the time of sale of a punchboard or
23 pulltab game to a retail permittee, a tax of 5% of the gross
24 value of the game;

25 (b) submit, within 15 days after the end of each

1 calendar quarter, the proceeds of the tax and any forms and
2 reasonable information the department may require; and

3 (c) keep a record of all taxes collected in the manner
4 that the department may require. The records must be
5 available for inspection by the department or its agents or
6 employees at all times during the business hours of the
7 licensee.

8 (2) The department shall:

9 (a) retain 10% of the tax for the purpose of
10 administering [sections 1 through 13];

11 (b) deposit one-third of the remainder of the tax in
12 the general fund; and

13 (c) forward the remainder of the tax to the treasurer
14 or finance officer of the city or town in which the
15 authorized game is offered or to the treasurer or finance
16 officer of the county if the game is not offered in a city
17 or town, for deposit to the treasury.

18 (3) The department's 10% share of the tax must be
19 deposited in the account created in [section 6].

20 NEW SECTION. Section 10. Criminal offenses. A knowing
21 or purposeful violation of [sections 1 through 13] or a rule
22 promulgated under the provisions of [sections 1 through 13]
23 is a criminal offense and upon conviction is punishable by a
24 fine not to exceed \$500 for the first offense, not to exceed
25 \$1,000 for a second offense, and not to exceed \$2,000 for a

1 third or subsequent offense. A person's license or permit
2 must be revoked upon a fourth conviction.

3 NEW SECTION. Section 11. Tampering violation. A person
4 may not knowingly or purposely tamper with or conspire to
5 tamper with a punchboard or pulltab game or the play of a
6 game to influence the outcome of the game.

7 NEW SECTION. Section 12. Civil penalties -- hearing.

8 If the department determines after a contested case hearing
9 that a licensee or permittee has violated a provision of
10 [sections 1 through 13] or the department's rules, the
11 department may, in addition to the other penalties
12 prescribed:

13 (1) suspend the license or permit for a period of not
14 more than 180 days;

15 (2) place a licensee or permittee on probation and set
16 terms of the probation;

17 (3) deny renewal of the license or permit on
18 expiration;

19 (4) revoke a license or permit; or

20 (5) impose a combination of any two of the penalties
21 set forth in subsections (1) through (3).

22 NEW SECTION. Section 13. Judicial review of agency
23 decision. (1) An interested party has the right to judicial
24 review of a final decision of the department concerning the
25 granting, denial, renewal, revocation, or suspension of a

1 license or permit.

2 (2) A petition for judicial review must conform to the
3 provisions of Title 2, chapter 4, part 7.

4 **Section 14.** Section 17-7-502, MCA, is amended to read:

5 "17-7-502. Statutory appropriations -- definition --
6 requisites for validity. (1) A statutory appropriation is an
7 appropriation made by permanent law that authorizes spending
8 by a state agency without the need for a biennial
9 legislative appropriation or budget amendment.

10 (2) Except as provided in subsection (4), to be
11 effective, a statutory appropriation must comply with both
12 of the following provisions:

13 (a) The law containing the statutory authority must be
14 listed in subsection (3).

15 (b) The law or portion of the law making a statutory
16 appropriation must specifically state that a statutory
17 appropriation is made as provided in this section.

18 (3) The following laws are the only laws containing
19 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
20 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;
21 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;
22 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;
23 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;
24 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;
25 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;

1 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; [section
2 6]; 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504;
3 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205;
4 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103;
5 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613;
6 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws
7 of 1985.

8 (4) There is a statutory appropriation to pay the
9 principal, interest, premiums, and costs of issuing, paying,
10 and securing all bonds, notes, or other obligations, as due,
11 that have been authorized and issued pursuant to the laws of
12 Montana. Agencies that have entered into agreements
13 authorized by the laws of Montana to pay the state
14 treasurer, for deposit in accordance with 17-2-101 through
15 17-2-107, as determined by the state treasurer, an amount
16 sufficient to pay the principal and interest as due on the
17 bonds or notes have statutory appropriation authority for
18 such payments. (In subsection (3), pursuant to sec. 10, Ch.
19 664, L. 1987, the inclusion of 39-71-2504 terminates June
20 30, 1991.)"

21 NEW SECTION. **Section 15.** Codification instruction --
22 code commissioner instruction. (1) [Sections 1 through 13]
23 are intended to be codified as an integral part of Title 23,
24 chapter 5, and as a separate part in chapter 5, and the
25 provisions of Title 23, chapter 5, part 1, apply to

LC 0351/01

1 [sections 1 through 13].

2 (2) The code commissioner shall recodify part 10 of
3 Title 23, chapter 5, as a new chapter in Title 23. Internal
4 references to Title 23, chapter 5, part 10, contained in the
5 Montana Code Annotated and in any act of the 52nd
6 legislature must be changed by the code commissioner if
7 necessary to retain their original meaning.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0308, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


The bill would authorize and regulate punchboard and pulltab games, provide qualifications for a license to manufacture or distribute authorized games and for a permit to offer games to the public. The bill would also provide for a statutory appropriation and distribution of revenue.

ASSUMPTIONS:

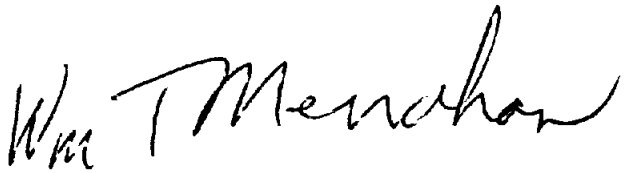
1. The average per capita amount spent on gambling using punchboard and pulltab games is \$100 per year. Montana's population is approximately 805,000. The total gross value of punchboard and pulltab games is estimated to be \$80,500,000 per year.
2. The total gross value tax of 5% will generate annual revenue of \$4,025,000, 60% of which will be distributed to cities and counties.
3. Annual license revenue is based upon estimates of 1,780 retail licenses, 10 distributor licenses, and 5 manufacturer licenses.
4. The increase of 12.00 FTE is made up of six grade 16, step 2 investigators, two grade 14, step 2 revenue agents, one grade 14, step 2 game tester, two grade 10, step 2 compliance technicians, and one grade 11, step 2 license technician.
5. Employee benefits are calculated at a 22% rate.
6. Current level expenditures and funding are represented by the executive budget adjusted base for the Gambling Control Division of the Department of Justice.

FISCAL IMPACT:

see next page



ROD SUNDSTED, BUDGET DIRECTOR 1-26-91
Office of Budget and Program Planning DATE



WILLIAM T. "RED" MENAHAN, PRIMARY SPONSOR 1/29/91
DATE

Fiscal Note for HB0308, as introduced

HB 308

Department of Justice-Gambling Control Division

	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
FTE	31.00	43.00	12.00	31.00	43.00	12.00
Personal Services	961,475	1,320,475	359,000	960,061	1,338,061	378,000
Operating Costs	398,343	513,343	115,000	399,922	514,922	115,000
Equipment	91,022	262,022	171,000	90,375	90,375	0
Local Assistance	<u>0</u>	<u>2,415,000</u>	<u>2,415,000</u>	<u>0</u>	<u>2,415,000</u>	<u>2,415,000</u>
Total	1,450,840	4,510,840	3,060,000	1,450,358	4,358,358	2,908,000
<u>Funding:</u>						
Video licenses/permits (02)	1,450,840	1,495,840	45,000	1,450,358	1,450,358	0
Punchboard/pulltab tax (02)	0	600,000	600,000	0	493,000	493,000
Local Assistance (02)	<u>0</u>	<u>2,415,000</u>	<u>2,415,000</u>	<u>0</u>	<u>2,415,000</u>	<u>2,415,000</u>
Total	1,450,840	4,510,840	3,060,000	1,450,358	4,358,358	2,908,000
<u>Revenues:</u>						
General Fund (01)	0	1,207,500	1,207,500	0	1,207,500	1,207,500
Punchboard/pulltab tax (02)	0	402,500	402,500	0	402,500	402,500
Punchboard/pulltab lic.(02)	0	198,000	198,000	0	198,000	198,000
Pulltab tax-local govt.(02)	<u>0</u>	<u>2,415,000</u>	<u>2,415,000</u>	<u>0</u>	<u>2,415,000</u>	<u>2,415,000</u>
Total	0	4,223,000	4,223,000	0	4,223,000	4,223,000
General Fund Impact			1,207,500			1,207,500

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Cities and counties offering the games would receive 60% of the 5% gross value tax, or about \$2,415,000 in revenue per year.

HB 308