

MINUTES OF THE MEETING  
BUSINESS & INDUSTRY COMMITTEE  
MONTANA STATE SENATE

April 3, 1985

The fifty-second meeting of the Business & Industry Committee met on Wednesday, March 3, 1985 in Room 410 of the Capitol Building at 10 a.m. The meeting was called to order by Chairman Mike Halligan.

ROLL CALL: All committee members were present. Also present were Senate Majority Leader, Fred Van Valkenburg, Representative Bob Pavlovich and John LaFaver, Director of the Department of Revenue.

DISPOSITION OF HOUSE BILL 236: The committee had met on March 29 and given Mary McCue, Legislative Staff Attorney some guidelines as to what they wanted included as amendments to House Bill 236. She then gave an explanation of the new proposals. Twelve new amendments had been proposed and she referred the committee to an outline of those changes she had prepared. (EXHIBIT 1) She noted the title had been changed from its original title. The bill would be known now as a substitute bill due to the number of changes made.

Section 1 has four definitions in it to include department, licensed establishment, licensee and video draw poker machines. The draw poker machine has a long list of specifications included which are similar to Senate Bill 391 without the computer tie-in. Section 4 sets the winning percentage.

Section 5 limits the amount of money that may be played per machine per game. Section 6 provides for the licensing by a local governing body. She noted there was the authority for a local governing body to license video machines and this would enable them to charge a license fee in addition.

Section 7 gives the power to the department of revenue to enforce and to be able to seize a machine that is in violation also.

Section 8 gives the specifications for state license qualifications. The person who has the liquor license or the tavern owner will be the one who has to satisfy the qualifications in order to have the machine in place.

Senator Goodover noted in section 5 (b) of Section 8 the word "have" must be inserted so it would read the directors must have resided in Montana for at least a year.

Section 9 simply states that these machines are legal. The implication is that other machines are not legal unless they satisfy the specifications and requirements of this act. The card games act does not apply to video poker.

Section 10 deals with the state license fee. The department would issue the license and charge an annual fee and the split would be 25/75. The smaller portion would go to the state general fund and the larger portion to local governments.

Section 11 expands the police power of the department of revenue. Mary McCue noted that in SB 391 there was a fine of \$5,000 for violation and this had been changed to \$10,000.

Section 12 deals with effective dates. She noted there is still a reference to the 30 month lease provision in the bill and if there is to be a sunset provision this would have to be addressed.

Senator Christiaens noted that the costs of the machine and the revenue it might develop made a lease no longer necessary and he felt the time period should be eliminated. Senator Christiaens then MOVED THAT THE LANGUAGE REGARDING THE 30 MONTH LEASE PERIOD BE REMOVED. The motion carried.

Senator Christiaens then MOVED TO SUNSET THE ACT July 1, 1987. Senator Goodover felt this was not necessary as he felt that the legislature could address this. Senator Fuller felt we should wait till next session to see how the program is going first. Senator Christiaens had talked with some senators who were reluctant to pass the bill unless a sunset provision was in effect. Rep. Pavlovich disagreed and so did Senator Goodover. On a roll call vote Senator Christiaens' Motion to sunset the act failed 6-5. (EXHIBIT 2)

Senator Gage wondered where the machines could be located and Mary McCue noted they can only be in a licensed establishment that has a liquor license. He expressed concern the machines would be located in areas where minors might have access to them. After some discussion, Senator Fred Van Valkenburg noted that in many small towns the local bar is a gathering place for all the local people and it would be difficult to segregate the machines. Senator Weeding felt it should be policed somehow however.

Senator Fuller MOVED TO CHANGE THE FEE FROM \$1500 to \$2000. Senator Goodover wondered if there was a difference if you had more than one machine and was told the price would be the same for each machine. As a SUBSTITUTE MOTION, SENATOR THAYER MOVED TO CHANGE THE FEE TO \$2500. Senator Williams felt this was far too high, he felt a graduated fee would be better. Senator Van Valkenburg noted the fee was very important because it could mean defeat or passage of the legislation. He felt the \$2000 fee would be more acceptable. Senator Kolstad felt that local governments would be looking closely at this and he too favored Senator Fuller's amendment.

Senator Fuller asked John LaFaver to respond concerning revenue figures. He felt that the action would vary from machine to machine. He felt if you went to a flat rate you would see fewer

machines in areas where the volume of play would be low.

Senator Williams felt it was important to know what percentage would be paid out to the county also.

Senator Thayer's MOTION TO CHANGE THE FEE FROM \$1500 to \$2500 failed.

Senator Fuller's MOTION TO CHANGE THE FEE TO \$2000 passed with Senator Neuman and Senator Williams voting "no".

Discussion began on a MOTION by Senator Fuller TO SPLIT THE PERCENTAGE 50/50 WITH 50% GOING TO THE STATE AND 50% GOING TO LOCAL GOVERNMENTS. Senator Christiaens expressed concern about how the money was allocated. He wondered if it might be better to handle this on a block grant process and might be fairer to the smaller towns. Senator Williams felt it might be better to administrate the way it is already designated in the bill. Senator Boylan noted that with block grants a small town like West Yellowstone generates a great deal of revenue but on a block grant basis gets back very little. Senator Weeding opposed the 50/50 split. Senator Goodover and Senator Gage also expressed reservations about the 50/50 split.

Senator Thayer spoke in support of keeping the split at 75/25. He felt the revenue should be distributed where it is generated from, from where the machine is located. Senator Kolstad noted this would be giving the bigger cities the most revenue.

Senator Fuller wondered how the money would be distributed and Mary McCue noted that if it was in the cities it would go to the cities and if licensed in the county it would go to the county government. She noted that Rep. Pavlovich had the word "incorporated" in his amendments and this had been removed. Senator Kolstad felt by doing this the counties would be totally eliminated. Senator Williams also felt this word was important and should remain in the bill.

Senator Fuller felt it was very important to know just how the money will be distributed. Rep. Pavlovich noted that the intent is for the money to stay in the cities if the machines are in the cities and in the counties if they are located in the counties.

Senator Van Valkenburg wondered if it was clear that two licenses are not going to be required in the bill. It would be a state license and a local license if the local governments wanted one. Senator Kolstad felt there should be a cap on the amount that cities can license. Senator Christiaens expressed concern though about setting a cap.

Senator Christiaens then asked Blake Wordal to explain the block grant process. Blake Wordal stated there are actually two block grants. The first is a replacement for license fees that are not

fully funded. Revenues from the first block grant program are returned to every taxing jurisdiction. Anything above the level of the first grant goes into the second block grant program and the state does not participate in this area just the local jurisdiction. He noted by overfunding a block grant program the money left over would automatically slop over into the second grant program. Senator Christiaens felt this was the reason he thought the block grant method would be beneficial to the local governing powers.

Senator Fuller wondered how much money might possibly be generated and John LaFaver felt there might be \$10 million if there were 5000 machines.

Senator Van Valkenburg advised the committee not to confuse the voting on the split with the block grant method because this was an entirely different matter. He also stated that the local governments are not getting anything right now and the only way they will be receiving anything is if this bill should pass. He noted the local enforcement officials had to enforce the situation when the draw 80 poker machines were in use before and handled it with the resources they had then. He felt the 50/50 split would make the bill more acceptable he felt.

Senator Goodover added that if the 75/25 split remains that there should be something written into the statement of intent so the local governments will realize this is not a windfall to them and that there should consequently be a reduction in property tax at least indicated.

On Senator Fuller's MOTION TO CHANGE THE SPLIT TO 50/50 the proposal failed 6-5. (EXHIBIT 3) Senator Boylan, Senator Gage, Senator Goodover, Senator Neuman, Senator Thayer and Senator Weeding voted "no". The split will remain at 75/25 as indicated in the bill.

Senator Christiaens then MOVED TO HANDLE THE DISTRIBUTION THROUGH THE BLOCK GRANT PROGRAM. Larry Kern, from the Department of Commerce, explained in more detail how a block grant program works.

Senator Thayer wondered if the bill in its present form would allow some counties to opt not to have the machines. If this were so, then counties that did not want the machines would still be sharing in the allocations he felt with the block grant method. Senator Goodover did not see the need to involve another department in order to institute this method. On a vote for Senator Christiaens MOTION TO GO TO THE BLOCK GRANT METHOD, the motion failed 10-1.

Mary McCue noted the language in the bill could say that you may license the machine in a city or town where the machine will be located and license it in the county if the machine is not located in a city or a town. Senator Kolstad then

MADE A MOTION TO ALLOW ONLY THE LOCAL GOVERNMENTS WHERE THE MACHINES ARE LOCATED TO LICENSE IF THEY WANT THE MACHINES. The motion carried.

Senator Van Valkenburg explained the reason he had sat in on the meeting was because he felt the bill would take a bit of time on the floor and he hoped that any objections there were could be handled before the bill went out on the floor for debate. He also wanted information from a leadership standpoint.

Senator Weeding felt there should be a restriction of just where the machines should be located. Senator Fuller felt if parents wanted their kids to be present they could be and he did not feel the machines should be hidden away in a dark corner. Senator Kolstad felt since it was unlawful for them to play them or receive the winnings there would not be a problem.

Senator Williams thought the wording should read "payout" instead of winnings in the bill. He then made a MOTION TO CHANGE THE WORDING TO SAY PAYOUT. On a roll call vote this motion failed 7-4. Senator Christiaens, Senator Boylan, Senator Fuller, Senator Gage, Senator Goodover, Senator Kolstad and Senator Neuman voted "no". (EXHIBIT 4)

Senator Halligan noted that it had not been addressed whether or not minors can play the machines. Senator Kolstad MOVED TO EXCLUDE THOSE UNDER THE LEGAL DRINKING AGE FROM OPERATING THE MACHINES. The motion carried with Senator Boylan voting "no".

Senator Halligan felt the language in Section 8, sub 1 and 2, should be struck as it was not necessary. Senator Christiaens felt this language came from the liquor license act. After some discussion, it was felt there should be something stating that in order to qualify for licensing you must have the same qualifications you have to have to obtain a state liquor license. Phil Strobe was asked to comment on this and he also felt the language was not necessary. Senator Fuller MOVED TO STRIKE SUBSECTION 1 and 2 AND TIE IT TO THE SAME QUALIFICATIONS AS THE LIQUOR LICENSE REQUIRES. This motion carried.

Senator Christiaens wondered about the transfer of a license if there was a change in ownership. Rep. Pavlovich noted this was already established law.

Senator Christiaens MOVED THAT HOUSE BILL 236 BE CONCURRED IN AS AMENDED. A gray bill will be typed in order to let the committee members have more time to study the bill more thoroughly. Senator Neuman spoke against the motion because he

felt that Senate Bill 391 was a better system with the electronic hookups. The MOTION TO CONCURR IN AS AMENDED passed 7-4 with Senator Gage, Senator Neuman, Senator Thayer, and Senator Halligan voting "no".

The meeting was adjourned at 11:30 a.m.

  
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SENATOR MIKE HALLIGAN, Chairman

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ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 4/3/85

SENATE  
SEAT  
#

NAME	PRESENT	ABSENT	EXCUSED
Chairman Halligan	X		
V-chrm. Christiaens	X		
Senator Boylan	X		
Senator Fuller	X		
Senator Gage	X		
Senator Goodover	X		
Senator Kolstad	X		
Senator Neuman	X		
Senator Thayer	X		
Senator Williams	X		
Senator Weeding	X		

Each day attach to minutes.

DATE April 3, 1985COMMITTEE ON BUSINESS & INDUSTRY

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppos
Kevin Jones	Palsen High School	HB36		
Lorilee G...	"			
Laurie Fudeberg	"			
Eric Pedersen	"			
Ruth O'Halloran	"			
George White	"			
Karin Finch	"			
Sharon Aden	"			
Kathy Steele	"			
Scott Henz	"			
Dana Marchello	"			
Dawn McCreary	"			
Cara Bras	"			
Brian Cyr	"			
W. H. Wright	"			
Michelle Moeller	"			
Linda Frazee	"			
Sherry Jones	"			
Becky Harding	"			
Tom Sabak	"			
Derek Smith	"			
Shelley Kerith	"			

(Please leave prepared statement with Secretary)



Brief outline of sections of HB 236, as amended

Section 1. short title

2. definitions
3. description, specifications
4. winning percentage
5. limitation on amount of money played and value of prizes
6. licensing by local governing bodies
7. powers and duties of the department--licensing
8. license qualifications, limitation on number of machines, lease term
9. legality of machines
10. license fee
11. investigations and violations
12. effective date

HOUSE BILL 236

1. Title, lines 4 through 6.

Following: "ACT"

Strike: remainder of title

Insert: "PROVIDING FOR LICENSING AND PLACEMENT OF  
ELECTRONIC VIDEO DRAW POKER MACHINES; PROVIDING FOR  
DISTRIBUTION OF REVENUE; PROVIDING A PENALTY PROVISION; AND  
PROVIDING EFFECTIVE DATES."

2. Page 1.

Strike: everything following the enacting clause

Insert: "Section 1. Short title. [Sections 1 through 11]  
shall be known and may be cited as the "Video Draw  
Poker Machine Control Law of 1985".

Section 2. Definitions.

As used in [sections 1 through 11], the following  
definitions apply:

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

(2) "Licensed establishment" means an establishment  
that is licensed to sell alcoholic beverages for consumption  
on the premises.

(3) "Licensee" means an individual, partnership, or  
corporation that has been issued a license by the department  
for the placement of video draw poker machines in a licensed  
establishment.

(4) "Video draw poker machine" means an electronic video game machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker, as provided in [sections 1 through 11], utilizing a video display and microprocessors in which, by the skill of the player or by chance, or both, the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, tokens, or anything else of value.

### Section 3. Description and specifications.

(1) Each video draw poker machine must:

(a) be inspected in the state of Montana for certification and licensure by the department;

(b) be connected with a system consisting of player-operated terminals. The terminals must be intelligent devices operated by the players in the manner specified in [sections 1 through 11].

(c) not have any switches, jumpers, wire posts, or any other means of manipulation that could affect the operation or outcome of a game; and

(d) offer only the game of draw poker and have the following method of operation:

(i) the cards must be shuffled after each hand of poker is dealt;

(ii) the game must have one memory location for each card in the deck. The deck must be shuffled by use of a random number generator to exchange each card in the deck with another randomly selected card;

(iii) after shuffling, five cards must be dealt from the top of the deck;

(iv) any discarded cards must be replaced by remaining cards in the deck, starting with the sixth card and using the cards in the order of the deck;

(v) after the first five cards of a hand have been dealt, the player must be allowed to raise his wager up to the amount of his initial ante, not to exceed eight quarters;

(vi) the game must display the hands for which free games or credits will be awarded and the number of free games or credits for each hand;

(vii) the machine must have doors to two locking areas, one area containing the logic board and software for the game draw poker and the other housing the cash compartment and mechanical meters. These areas must be locking and separated. Access to one from the other must not be allowed at any time.

(viii) the machine must have two mechanisms that accept quarters;

(ix) the machine must use a color display with images of cards that closely resemble standard poker playing cards;

(x) the machine must be capable of printing a ticket voucher for the player at the completion of each game. If credits are owed the player, the ticket must contain:

- (A) the name of the licensed establishment;
- (B) the name of the city, town, or county in which the licensed establishment is located;
- (C) the value of the prize in numbers;
- (D) the value of the prize in words;
- (E) the time of day, in hours and minutes in a 24-hour format;
- (F) the date;
- (G) the machine license number or serial number up to eight digits;
- (H) the sequential number of the ticket voucher; and
- (I) an encrypted validation number from which the validity of the prize can be determined;

(xi) an exact copy of each printed ticket voucher must be printed and retained within the machine;

(xii) the machine must have nonresettable mechanical meters housed in the cash compartment that keep a permanent record of:

- (A) coins accepted by each coin acceptor;
- (B) credits played by player;
- (C) credits won by player; and
- (D) credits printed out by the ticket voucher printer;

(xiii) the machine must contain electronic metering using meters that record the following and display them on the video screen:

(A) total coins in mechanism 1, total coins in mechanism 2, and total coins in mechanisms 1 and 2 combined;

(B) total credits, total credits played, and total credits won;

(C) total hands of poker played and total hands of poker won;

(D) total winning hands, consisting of a pair, two pair, three of a kind, a straight, a flush, a full house, four of a kind, a straight flush, or five of a kind;

(E) total errors from the logic board random access memory; and

(F) total examination of electronic meters;

(xiv) the machine may not have any functions or parameters adjustable by or through any separate video display or input codes, except for the adjustment of features that are wholly cosmetic;

(x) the machine must issue, by activation of an external switch, an accounting ticket containing a performance synopsis of the machine. The ticket must contain:

- (A) the name of the licensed establishment;
- (B) the name of the city, town, or county in which the licensed establishment is located;
- (C) the license number of the machine;
- (D) the time of day, in hours and minutes in a 24-hour format;

(E) the date; and  
(F) the electronic meter readings required by  
subsection ( xii )

Section 4. Winning percentage -- verification.  
The department shall prescribe the winning percentage, which must be at least 80%. Each machine must have an electronic accounting device that the department may use to verify the winning percentage.

Section 5. Limitation on amount of money played and value of prizes. A machine may not allow more than \$2 to be played on a game or award free games or credits in excess of the value of \$100 per hand.

Section 6. Licensing by local governing bodies.

(1) Any city, town, or county governing body may issue to a person who meets the qualifications of [section 8] a license for video draw poker machines to be used on the premises of a licensed establishment.

(2) In addition to the license fee paid under [section 10], a governing body may charge an annual license fee for each license issued under this section. The license expires on June 30 of each year, and the fee must be prorated.

Section 7. Powers and duties of the department -- licensing.

(1) The department shall administer the provisions of [sections 1 through 5 and 7 through 11].

(2) The department shall adopt rules implementing [sections 1 through 5 and 7 through 11] and with respect to state licenses:

- (a) provided licensing procedures;
- (b) prescribe necessary application forms; and
- (c) grant or deny license application.

(3) The department may not deny or place a condition on a license except for reasonable cause.

(4) The department is a criminal justice agency, and designated employees are granted peace officer status with powers of search, seizure, and arrest to regulate and control those persons licensed under [sections 1 through 5 and 7 through 11].

Section 8. State license qualifications.

(1) A person may not be granted a license unless he is of good character, honest, has adequate financing from suitable sources, is a citizen of the United States, and has resided in this state for at least 1 year prior to the application.

(2) No license may be granted to a person who has been convicted of being or is the keeper of a house of prostitution or has had a license issued under [sections 1 through 5 and 7 through 11], revoked for cause.

(3) A license may not be renewed if the licensee no longer meets the requirements for granting a license.

(4) If a license applicant is a partnership, each partner, including a limited partner, must qualify under subsections (1) through (3).

(5) If a license applicant is a corporation:

(a) it must have been a registered Montana corporation for a least 1 year prior to the application;

(b) at least one-half of its directors must <sup>have</sup> resided in Montana for at least 1 year;

(c) each officer must qualify under subsections (1) through (3); and

(d) each stockholder must be a natural person and, if he owns 5% or more of the stock of corporation, he must qualify under subsections (1) through (3).

(6) A licensee may not make available for play on the premises of his licensed establishment more than five machines.

(7) If under a lease agreement, a video draw poker machine may not be placed in a licensed establishment unless the owner, lessee, or other person operating the licensed establishment operating the licensed establishment has entered into a contract with a machine owner for the placement of the machines for a minimum term of 30 months.

(8) A person denied a state license has the right to a hearing before the department. The hearing must be conducted in accordance with the provisions of the Montana Administrative Procedure Act.

Section 9. Legality of machines. No person may place a video draw poker machine in his licensed establishment unless he is licensed under [section 10]. Machines licensed under [section 10] are legal and it is legal to play such machines. The provisions of Title 23, chapter 5, part 3, do not apply to or prohibit video draw poker machines or the playing of such machines.

#### Section 10. State license fee.

(1) The department of revenue, upon payment of the fee provided in subsection (2) and in conformance with rules adopted under [section 7] shall issue to the licensee a license for each video draw poker machine.

(2) The department shall charge an annual license fee of \$1,500 for each machine and shall deposit 25% of the fee in the state general fund and forward 75% of the fee to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed machine is located for deposit to the county or municipal treasury. Counties are not entitled to proceeds from fees on licensed machines located in cities and towns. The license expires on June 30 of each year, and the fee is prorated.

Section 11. Investigations and violations. (1) The department shall make necessary investigations, suspend or revoke state licenses for violations of [sections 1 through 5 and 7 through 11], and hold hearings on such matters. A license may be suspended prior to a hearing upon a finding of danger to public health and welfare, but may not be revoked until the hearing is completed.

(2) A violation of [sections 1 through 5 and 7 through 11] or a rule promulgated under [section 7] is a criminal offense, and a fine not to exceed \$10,000 for the first violation and \$15,000 for a subsequent violation must be imposed.

(3) If a video draw poker machine is operated in violation of [sections 1 through 5 and 7 through 11] it may be seized under 23-5-121, and 23-5-122 applies.

(4) Employees of the department designated as enforcement agents may investigate the background of license applicants to the extent judged necessary by the department, but no person may be investigated prior to his submission of an application for a license.

(5) Findings of suspected illegal activity must be reported to the appropriate law enforcement agency.

(6) Any peace officer of this state may arrest a person for tampering with a video draw poker machine, attempting or conspiring to manipulate the outcome or the payoff of a video draw poker machine, or manipulating the outcome or payoff of a video draw poker machine by physical tampering or other interference with the proper functioning of the machine.

Section 12. Preemption of local taxes. Video draw poker machines are exempt from taxes or fees levied by any government entity except as provided in [sections 1 through 5 and 7 through 11].

Section 12. Effective dates--termination date. (1) This section and subsection (2) of section 7 are effective on passage and approval for the purpose of adoption of rules that are applicable on July 1, 1985.

(2) The remainder of this act is effective July 1, 1985.

ROLL CALL VOTE

EXHIBIT 2  
BUSINESS & INDUSTRY  
April 3, 1985

SENATE COMMITTEE BUSINESS & INDUSTRY

Date April 3, 1985 HOUSE Bill No. 236 Time 11 a.m.

NAME	YES	NO
Chairman Mike Halligan	X	
V-Chrm. B. F. Christiaens	X	
Senator Paul Boylan		X
Senator David Fuller		X
Senator Delwyn Gage		X
Senator Pat Goodover		X
Senator Allen Kolstad	X	
Senator Ted Neuman		X
Senator Gene Thayer	X	
Senator Bob Williams		X
Senator Cecil Weeding	X	

Carol Duval  
Secretary

Mike Halligan  
Chairman

Motion: Motion by Senator Christiaens to sunset the act  
effective July 1, 1987. The motion failed 6-5.



ROLL CALL VOTE

EXHIBIT 3  
BUSINESS & INDUSTRY  
April 3, 1985

SENATE COMMITTEE BUSINESS & INDUSTRY

Date April 3, 1985 HOUSE Bill No. 236 Time 11:15 a.m.

NAME	YES	NO
Chairman Mike Halligan	X	
V-Chrm. B. F. Christiaens	X	
Senator Paul Boylan		X
Senator David Fuller	X	
Senator Delwyn Gage		X
Senator Pat Goodover		X
Senator Allen Kolstad	X	
Senator Ted Neuman		X
Senator Gene Thayer		X
Senator Bob Williams	X	
Senator Cecil Weeding		X

Carol Duval  
Secretary

Mike Halligan  
Chairman

Motion: Motion by Senator Fuller to change the split to  
50/50. Motion failed 6-5. Senator Boylan, Senator Gage,  
Senator Goodover, Senator Neuman, Senator Thayer and Senator  
Weeding voted "no".

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS & INDUSTRY

Date April 3, 1985 HOUSE Bill No. 236 Time 11:20 a.m.

NAME	YES	NO
Chairman Mike Halligan	X	
V-Chrm. B. F. Christiaens		X
Senator Paul Boylan		X
Senator David Fuller		X
Senator Delwyn Gage		X
Senator Pat Goodover		X
Senator Allen Kolstad		X
Senator Ted Neuman		X
Senator Gene Thayer	X	
Senator Bob Williams	X	
Senator Cecil Weeding	X	

Carol Duval  
Secretary

Mike Halligan  
Chairman

Motion: Motion by Senator Williams to change the wording  
to payout instead of winnings. This motion failed 7-4 with  
Senator Christiaens, Senator Boylan, Senator Fuller, Senator Gage,  
Senator Goodover, Senator Kolstad and Senator Neuman voting "no".

# STANDING COMMITTEE REPORT

Page 1 of 7

April 3

19. 85

MR. PRESIDENT

## BUSINESS & INDUSTRY

We, your committee on

HOUSE BILL

236

having had under consideration

No.

reading copy ( )

color

## REDEFINE "CARD GAMES" TO INCLUDE VIDEO GAME MACHINES

HOUSE BILL

236

Respectfully report as follows: That

No.

be amended as follows:

1. Title, lines 4 through 6.

Following: "AN ACT"

Strike: remainder of title

Insert: "PROVIDING FOR LICENSING AND PLACEMENT OF ELECTRONIC VIDEO DRAW POKER MACHINES; PROVIDING FOR DISTRIBUTION OF REVENUE; PROVIDING A PENALTY PROVISION; AND PROVIDING EFFECTIVE DATES."

2. Page 1.

Strike: everything following the enacting clause

Insert: "Section 1. Short title. [Sections 1 through 11] shall be known and may be cited as the "Video Draw Poker Machine Control Law of 1985".

Section 2. Definitions. As used in [sections 1 through 11], the following definitions apply:

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

(2) "Licensed establishment" means an establishment that is licensed to sell alcoholic beverages for consumption on the premises.

(continued)

XXXXXX

XXXXXXXXXX  
DO NOT PASS

Chairman.

April 3

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(3) "Licensee" means an individual, partnership, or corporation that has been issued a license by the department for the placement of video draw poker machines in a licensed establishment.

(4) "Video draw poker machine" means an electronic video game machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker, as provided in [sections 1 through 11], utilizing a video display and microprocessors in which, by the skill of the player or by chance, or both, the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, tokens, or anything else of value.

Section 3. Description and specifications. (1) Each video draw poker machine must:

(1) be inspected in the state of Montana for certification and licensure by the department;

(2) be connected with a system consisting of player-operated terminals. The terminals must be intelligent devices operated by the players in the manner specified in [sections 1 through 11].

(3) not have any switches, jumpers, wire posts, or any other means of manipulation that could affect the operation or outcome of a game; and

(4) offer only the game of draw poker and have the following method of operation:

(a) the cards must be shuffled after each hand of poker is dealt;

(b) the game must have one memory location for each card in the deck. The deck must be shuffled by use of a random number generator to exchange each card in the deck with another randomly selected card;

(c) after shuffling, five cards must be dealt from the top of the deck;

(d) any discarded cards must be replaced by remaining cards in the deck, starting with the sixth card and using the cards in the order of the deck;

(e) after the first five cards of a hand have been dealt, the player must be allowed to raise his wager up to the amount of his initial ante, not to exceed eight quarters;

(continued)

April 3

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19.....

(f) the game must display the hands for which free games or credits will be awarded and the number of free games or credits for each hand;

(g) the machine must have doors to two locking areas, one area containing the logic board and software for the game draw poker and the other housing the cash compartment and mechanical meters. These areas must be locking and separated. Access to one from the other must not be allowed at any time.

(h) the machine must have two mechanisms, hereafter referred to as "mechanism 1 and mechanism 2," that accept quarters;

(i) the machine must use a color display with images of cards that closely resemble standard poker playing cards;

(j) the machine must be capable of printing a ticket voucher for the player at the completion of each game. If credits are owed the player, the ticket must contain:

(i) the name of the licensed establishment;

(ii) the name of the city, town, or county in which the licensed establishment is located;

(iii) the value of the prize in numbers;

(iv) the value of the prize in words;

(v) the time of day, in hours and minutes in a 24-hour format;

(vi) the date;

(vii) the machine license number or serial number up to eight digits;

(viii) the sequential number of the ticket voucher; and

(ix) an encrypted validation number from which the validity of the prize can be determined;

(k) an exact copy of each printed ticket voucher must be printed and retained within the machine;

(l) the machine must have nonresettable mechanical meters housed in the cash compartment that keep a permanent record of:

(i) coins accepted by each coin acceptor;

(ii) credits played by player;

(iii) credits won by player; and

(iv) credits printed out by the ticket voucher printer;

(m) the machine must contain electronic metering using meters that record the following and display them on the video screen:

(i) total coins in mechanism 1, total coins in mechanism 2, and total coins in mechanisms 1 and 2 combined;

(continued)

(ii) total credits, total credits played, and total credits won;

(iii) total hands of poker played and total hands of poker won;

(iv) total winning hands, consisting of a pair, two pair, three of a kind, a straight, a flush, a full house, four of a kind, a straight flush, or five of a kind;

(v) total errors from the logic board random access memory; and

(vi) total examination of electronic meters;

(n) the machine may not have any functions or parameters adjustable by or through any separate video display or input codes, except for the adjustment of features that are wholly cosmetic;

(o) the machine must issue, by activation of an external switch, an accounting ticket containing a performance synopsis of the machine. The ticket must contain:

(i) the name of the licensed establishment;

(ii) the name of the city, town, or county in which the licensed establishment is located;

(iii) the license number of the machine;

(iv) the time of day, in hours and minutes in a 24-hour format;

(v) the date; and

(vi) the electronic meter readings required by subsection (1).

#### Section 4. Expected payback -- verification.

The department shall prescribe the expected payback value of one credit played to be at least 80% of the value of a credit. Each machine must have an electronic accounting device that the department may use to verify the winning percentage.

Section 5. Limitation on amount of money played and value of prizes. A machine may not allow more than \$2 to be played on a game or award free games or credits in excess of the value of \$100 per hand.

(continued)

April 3

1985

Section 6. Licensing by local governing bodies.

(1) Any city, town, or county governing body may issue to a person who meets the qualifications of [section 8] a license for video draw poker machines to be used on the premises of a licensed establishment. A machine may be licensed by a city or town if located in the city or town or by the county if the machine is not located in a city or town.

(2) In addition to the license fee paid under [section 10], a governing body may charge an annual license fee for each license issued under this section. The license expires on June 30 of each year, and the fee must be prorated.

Section 7. Powers and duties of the department -- Licensing.

(1) The department shall administer the provisions of [sections 1 through 5 and 7 through 11].

(2) The department shall adopt rules implementing [sections 1 through 5 and 7 through 11] and, with respect to state licenses:

- (a) provide licensing procedures;
- (b) prescribe necessary application forms; and
- (c) grant or deny license applications.

(3) The department may not deny or place a condition on a license except for reasonable cause.

(4) The department is a criminal justice agency, and designated employees are granted peace officer status with powers of search, seizure, and arrest to regulate and control those persons licensed under [sections 1 through 5 and 7 through 11].

Section 8. State license qualifications -- limitations -- right to hearing.

(1) A person who meets the requirements of 16-4-401

(2) for a license to sell alcoholic beverages for consumption on the premises may be granted a license for the placement of video draw poker machines in a licensed establishment.

(2) A licensee may not make available for play on the premises of his licensed establishment more than five machines.

(3) A person denied a state license has the right to a hearing before the department. The hearing must be conducted in accordance with the provisions of the Montana Administrative Procedure Act.

(continued)

April 3

1983

Section 9. Video draw poker machines -- possession -- play -- restriction. No person may place a video draw poker machine in his licensed establishment unless he is licensed under [section 10]. Machines licensed under [section 10] are legal, and it is legal to play such machines, except that a person under the legal age for consuming or possessing alcoholic beverages may not play a video draw poker machine. The provisions of Title 23, chapter 5, part 3, do not apply to or prohibit video draw poker machines or the playing of such machines.

Section 10. State license -- fee.

(1) The department of revenue, upon payment of the fee provided in subsection (2) and in conformance with rules adopted under [section 7] shall issue to the licensee a license for each video draw poker machine.

(2) The department shall charge an annual license fee of \$2,000 for each machine and shall deposit 25% of the fee in the state general fund and forward 75% of the fee to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county or municipal treasury. Counties are not entitled to proceeds from fees on licensed machines located in cities and towns. The license expires on June 30 of each year, and the fee is prorated.

Section 11. Investigations and violations. (1) The department shall make necessary investigations, suspend or revoke state licenses for violations of [sections 1 through 5 and 7 through 11], and hold hearings on such matters. A license may be suspended prior to a hearing upon a finding of danger to public health and welfare, but may not be revoked until the hearing is completed.

(2) A violation of [sections 1 through 5 and 7 through 11] or a rule promulgated under [section 7] is a criminal offense, and a fine not to exceed \$10,000 for the first violation and \$15,000 for a subsequent violation must be imposed.

(3) If a video draw poker machine is operated in violation of [sections 1 through 5 and 7 through 11], it may be seized under 23-5-121 and the provisions of 23-5-122 apply.

(continued)



April 3

19.35

(4) Employees of the department designated as enforcement agents may investigate the background of license applicants to the extent judged necessary by the department, but no person may be investigated prior to his submission of an application for a license.

(5) Findings of suspected illegal activity must be reported to the appropriate law enforcement agency.

(6) Any peace officer of this state may arrest a person for tampering with a video draw poker machine, attempting or conspiring to manipulate the outcome or the payoff of a video draw poker machine, or manipulating the outcome or payoff of a video draw poker machine by physical tampering or other interference with the proper functioning of the machine.

Section 12. Effective dates--termination date. (1) This section and subsection (2) of section 7 are effective on passage and approval for the purpose of adoption of rules that are applicable on July 1, 1985.

(2) The remainder of this act is effective July 1, 1985."

AND AS AMENDED  
BE CONCURRED IN

SEN. MIKE HALLIGAN, Chairman