

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

April 4, 1985

The fifty-third meeting of the Business & Industry Committee met on Thursday, April 4, 1985 in Room 410 of the Capitol Building. The meeting was called to order by Chairman Mike Halligan at 10 a.m.

ROLL CALL: All committee members were present. Also present were John Poston, Lobbyist for the Montana Coin Machine Operators, Dave Schlosser from the Department of Revenue and Bob Durkee from the Montana Tavern Association.

DISPOSITION OF HOUSE BILL 236: Chairman Halligan noted that he had requested the Department of Revenue have a representative available for any questions the committee might still have regarding House Bill 236. A gray bill had been prepared and was distributed to committee members along with a statement of intent. (EXHIBIT 1)

Questions had been raised earlier about whether or not the machines could be made tamperproof. John Poston stated he felt the old machines could be used but the department of revenue might have to seal off the portion of the machine that was adjustable. Bob Durkee stated they had information that a tamperproof machine could be manufactured but his primary concern would be the cost of such a machine. He felt some of the specifications would make the cost of the machines prohibitive. Senator Williams hoped that the old machines could be utilized as he felt more would be licensed if they could use the old machines. John Poston noted that there were some of the older machines that could not be set for the pay out of 80% however.

Senator Goodover wondered if the present machines would be able to perform all the functions spelled out in the specifications. John Poston noted the existing machines did not have the ticket device but this could be added onto the machines he felt. Senator Weeding wondered about the two door sections of the machine. John Poston explained one was for the bookkeeping section and one was for the cash compartment.

Dave Schlosser then spoke on the revenue impact this bill would have. He noted a fiscal note had been requested but had not yet been completed. He thought the licensing program would be similar to the liquor licensing program. This would require 5 FTE. To do the inspections and monitoring of the machines they would require three revenue agents and one accountant. Senator Kolstad felt this was far too many people. Dave Schlosser noted that the licensing for the liquor division requires 5 people and even then in their peak period have to hire additional help to get them through the busier times. The total cost would be about \$203,000 per year. The breakdown of the 5 FTE would be two licensing technicians, a research clerk, a file clerk

and a supervisor.

For operating expenses, this would require computer services, supplies, filing, telephone, vehicle and travel expenses of approximately \$77,000 the first year and \$62,000 the second year.

Dave Schlosser was then asked if this could possibly be tied in with the liquor inspections. He noted the liquor inspectors are mostly used for licensing. He stated the major reason they would go to an establishment would be when they received a complaint of watered liquor, etc. and then they would usually go undercover.

Senator Weeding wondered how many verification stops would be necessary per year by the department and Dave Schlosser felt that a minimum of 4 times per year would be required.

Senator Williams asked what the functions and duties of the inspectors would be. Dave Schlosser stated they would mostly check to see if the machines are licensed and current, check to see if the machine has been tampered with and verify if the meters are accurate. If a machine was found to be in violation, the machine would be seized.

Dave Schlosser wondered if there might be a problem in misinterpretation if a person could expect an 80% payback from the machine. He felt the proper statistical wording for averaging should be "expected value." John Poston felt this might be proper wording from a statistician's point of view but in gambling jargon winning percentage is used. Senator Christiaens felt this was clear in the bill.

Senator Thayer wondered about the maintenance of the machines and what would happen if a machine were to go beserk. Dave Schlosser noted they would then have to call a state inspector to come and examine the machine or else the department would be compelled to seize the machine. Senator Neuman wondered if a machine would have to be recertified each time it was worked on. John Poston felt that regular maintenance of the machine would not affect the metered part or the sealed off portion of the machine. Bob Durkee felt if a machine were to start playing erratically the barowner would contact the machine owner and the machine would be replaced or repaired. It was noted that the newer machines were much more accurate and reliable than the older machines were. The percentage of reliability now is somewhere near 99.5% Dave Schlosser noted and he thought at the most there might possibly be 50 machines per year that might need attention. He noted they would have a board of bonded repairmen to contact to do routine maintenance calls.

Senator Goodover then MOVED TO ADOPT THE STATEMENT OF INTENT FOR HOUSE BILL 236. The motion carried. Senator Neuman voted "no".

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

cd


SENATOR MIKE HALLIGAN, Chairman

ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 4/4/85

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		

Each day attach to minutes.

EXHIBIT 1
BUSINESS & INDUSTRY
April 4, 1985

HOUSE BILL NO. 236

INTRODUCED BY PAVLOVICH, DRISCOLL, HARP, ZABROCKI,
JACK MOORE, NISBET, KEENAN, D. BROWN, HARRINGTON, KRUEGER,
MANNING, JONES, C. SMITH, O'CONNELL, LYNCH, JACOBSON,
STIMATZ, DANIELS, HAFHEY, BOYLAN, GALT, TVEIT, GOULD
MENAHAN, QUILICI, HOLLIDAY, KOEHNKE, BRADLEY, MARKS

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING--"CARD-GAME"--TO
INCLUDE-A-GAME-PLAYED-ON-A-MECHANICAL--OR--ELECTRONIC--VIDEO
GAME--MACHINE,--AMENDING-SECTION-23-5-302,--MCA: PROVIDING FOR
LICENSING AND PLACEMENT OF ELECTRONIC VIDEO DRAW POKER
MACHINES; PROVIDING FOR DISTRIBUTION OF REVENUE; PROVIDING A
PENALTY PROVISION; AND PROVIDING EFFECTIVE DATES."

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

(Refer to Third Reading Bill)

Strike everything after the enacting clause and 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

1 on the premises.

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

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

15 Section 3. Description and specifications. Each video
16 draw poker machine must:

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

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

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

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

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

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

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

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

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

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

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

1 at any time.

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

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

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

10 (i) the name of the licensed establishment;

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

13 (iii) the value of the prize in numbers;

14 (iv) the value of the prize in words;

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

17 (vi) the date;

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

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

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

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

25 (l) the machine must have nonresettable mechanical

1 meters housed in the cash compartment that keep a permanent
2 record of:

3 (i) coins accepted by each coin acceptor;
4 (ii) credits played by player;
5 (iii) credits won by player; and
6 (iv) credits printed out by the ticket voucher printer;
7 (m) the machine must contain an electronic metering
8 system, using meters that record the following and display
9 them on the video screen:

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

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

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

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

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

21 (vi) total examination of electronic meters;

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

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

5 (i) the name of the licensed establishment;

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

8 (iii) the license number of the machine;

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

11 (v) the date; and

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

14 Section 4. Expected payback -- verification. The
15 department shall prescribe the expected payback value of one
16 credit played to be at least 80% of the value of a credit.
17 Each machine must have an electronic accounting device that
18 the department may use to verify the winning percentage.

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

23 Section 6. Licensing by local governing bodies. (1)
24 Any city, town, or county governing body may issue to a
25 person who meets the qualifications of [section 8] a license

1 for video draw poker machines to be used on the premises of
2 a licensed establishment. A machine may be licensed by a
3 city or town if located in the city or town or by the county
4 if the machine is not located in a city or town.

5 (2) In addition to the license fee paid under [section
6 10], a governing body may charge an annual license fee for
7 each license issued under this section. The license expires
8 on June 30 of each year, and the fee must be prorated.

9 Section 7. Powers and duties of the department --
10 licensing. (1) The department shall administer the
11 provisions of [sections 1 through 5 and 7 through 11].

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

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

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

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

25 Section 8. State license qualifications --

1 limitations -- right to hearing. (1) A person who meets the
2 requirements of 16-4-401(2) for a license to sell alcoholic
3 beverages for consumption on the premises may be granted a
4 license for the placement of video draw poker machines in a
5 licensed establishment.

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

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

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

23 Section 10. State license -- fee. (1) The department
24 of revenue, upon payment of the fee provided in subsection
25 (2) and in conformance with rules adopted under [section 7],

1 shall issue to the licensee a license for each video draw
2 poker machine.

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

12 Section 11. Investigations and violations. (1) The
13 department shall make necessary investigations, suspend or
14 revoke state licenses for violations of [sections 1 through
15 5 and 7 through 11], and hold hearings on such matters. A
16 license may be suspended prior to a hearing upon a finding
17 of danger to public health and welfare but may not be
18 revoked until the hearing is completed.

19 (2) A violation of [sections 1 through 5 and 7 through
20 11] or a rule promulgated under [section 7] is a criminal
21 offense, and a fine not to exceed \$10,000 for the first
22 violation and \$15,000 for a subsequent violation must be
23 imposed.

24 (3) If a video draw poker machine is operated in
25 violation of [sections 1 through 5 and 7 through 11], it may

1 be seized under 23-5-121 and the provisions of 23-5-122
2 apply.

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

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

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

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

21 (2) The remainder of this act is effective July 1,
22 1985.

-End-

MR. PRESIDENT,

WE, YOUR COMMITTEE ON BUSINESS AND INDUSTRY HAVING HAD UNDER CONSIDERATION HOUSE BILL NO. 236, ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT

EXHIBIT 1

BUSINESS & INDUSTRY

April 4, 1985

House BILL NO. 236

A statement of intent is required for this bill because section 7 gives the department of revenue authority to make rules to implement and regulate the licensing of electronic video draw poker machines and the distribution of the fees received from the licensing of the machines.

It is the intent of the legislature that rules be adopted to protect the health, welfare, and safety of the citizens of the state of Montana and to assure compliance with this bill.

The rules should at a minimum:

- (1) ensure the integrity and security of the machines;
- (2) provide a method of examining the qualifications of state license applicants and licensees;
- (3) provide for investigation procedures;
- (4) provide a procedure for monitoring the machines in play to assure their compliance with this bill;
- (5) provide for a distinctive device that will serve as an identifying and validating mark for each machine that has been licensed and provide for a method to account for the devices;
- (6) provide that no machine be made available to the public for play unless it has been duly licensed, with the fee paid and validating device attached.