

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT**

**Call to Order:** By REP. BOB BACHINI, CHAIRMAN, on February 12, 1991, at 8:00 A.M.

#### **ROLL CALL**

##### **Members Present:**

Bob Bachini, Chairman (D)  
Sheila Rice, Vice-Chair (D)  
Joe Barnett (R)  
Steve Benedict (R)  
Brent Cromley (D)  
Tim Dowell (D)  
Alvin Ellis, Jr. (R)  
Stella Jean Hansen (D)  
H.S. "Sonny" Hanson (R)  
Tom Kilpatrick (D)  
Dick Knox (R)  
Don Larson (D)  
Scott McCulloch (D)  
Bob Pavlovich (D)  
John Scott (D)  
Don Steppler (D)  
Rolph Tunby (R)  
Norm Wallin (R)

**Staff Present:** Paul Verdon, Legislative Council  
Jo Lahti, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Announcements/Discussion:** HB 503, HB 378, HB 308 were heard today. Executive action on HB 479.

#### **HEARING ON HOUSE BILL 503**

##### **Presentation and Opening Statement by Sponsor:**

REP. FRITZ DAILY, HD 69, Butte, explained HB 503 is an Act to allow the play of sports tab games; to raise the price that may be charged for a sports pool chance; to raise the total amount that may be paid to winners of a sports pool; amending sections 23-5-501, 23-5-502, and 23-5-503, MCA; and providing an immediate effective date.

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 2 of 26

This bill has two goals. On page 3, lines 1-3 the cost of a chance to participate in a sports pool is raised from \$5 to \$100. The payout value which in present law is \$500 was raised to \$10,000. MPC, Mountain Bell, Montana Tech and various taverns have these boards for their employees to play.

Several people can purchase one board or sports pool. This increase is substantial, but it is asked for by constituents who would like to play for these amounts. Rather than changing the amount of payout, just leave it at \$500.

Page 2, line 4 (3) legalizes sports tabs, very similar to sports pools. "'Sports tab' means a card to which 100 tabs are attached that have 100 different combinations for which consideration in money is paid by the person playing for each tab for the chance to win money or other items of value on any sports event in which the participants in the sports event are natural persons or animals." There are 100 squares on a board. Numbers are drawn and posted. There are 100 squares on a sports pool board. You receive your numbers when the squares are all filled. When you buy a pulltab you get your number which is on it at that time.

The Butte County Attorney felt that sports tabs are the same as sports pools which are legal. A person selling 10% of the payout has to purchase the sports tab board; occasionally the entire board is not sold. It is a recreational form of gambling. People don't play large sums of money. No one is going to lose their paycheck on these recreational forms of gambling. The sports tabs would have a maximum payoff of \$500. He has the amendment to accomplish this goal. EXHIBIT 1. EXHIBIT 2. REP. PAVLOVICH exhibited several examples of sports tabs and sports pools boards. Two examples are EXHIBITS 3A.

Proponents' Testimony:

REP. PAVLOVICH, HD 72, Butte, said they run sports pools with 100 squares on each board. Each square costs \$1 and the payoff is \$100. On a sports pool board when a square is bought, you don't get your number until the board is full. One board was for \$2 on the Bobcat-Grizzly game, it paid \$100 at half time and \$100 at the end of the game.

There is a 25 square board that has two numbers on the top and two numbers on the bottom. It just needs 25 squares to be bought to fill the board. The payout is a drink from Rainier Beer, or Bud, etc. In a sports tab there are 100 combinations on the board, the same as on the 100 square board. There is no difference. There are 100 combinations on each. When you buy a tab, you have your number with you. On a sports pool you get your number when the board is full. Tabs were \$2 apiece for the Montana State and Montana University game. The first number is the home team and the second number is the visiting team. (He passed out samples of the various boards.) They sell for \$1 and the payoff is \$80. The highest paid was \$5 a chance.

BU021291.HM1

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 3 of 26

When you put the board up on a given day that will be on that game that night. He takes a chance on selling them all. When you put a board up you commit yourself to that board and allow four or five days for it to sell. If the winners were all gone, the operator loses. It is the same as a pool except you get your number up front. This is very popular. He has been doing it for the last 40 years. It became illegal last year, so he went to court. It was a hassle, and he hasn't sold them since. They are very popular. Four or five ladies will come in, have a drink and buy a tab. Butte is not the only city in the State that has been doing this. This is not big time gambling.

Mark Staples, Montana Tavern Association, agrees with REP. PAVLOVICH, the house takes nothing. The people like to participate. It is for low stakes, and basically a social game. They certainly support HB 503.

The owner of the Missoula Club in Missoula, said he ran these pools in the 30s and 40s. People played and had a lot of fun playing them. He wants to raise the cost of a chance to \$100. People come in and beg to get a board to play. They just have a lot of fun. He never saw anybody get hurt playing them in his life.

Other people were proponents. See the Visitor's Register.

Opponents' Testimony:

Joe Roberts, along with his wife, works for an organization called "Don't Gamble with the Future". He feels HB 503 is an expansion of gambling. This is precisely the way much of the gambling legislation that has been passed has led to the expansion of gambling in Montana. He doesn't necessarily agree or disagree with the statement that the house doesn't take anything other than it is a trade stimulant. Raising the cost to \$100 per sports pool chance with payouts on sports pools limits up to \$10,000, is a quantitatively big difference. There is big money involved when you get to that point. He opposes this. It is no longer an innocent office-type game with these kinds of aspects.

The house takes 10%. That is a quantitatively different animal. It is a commercial form of gambling. You have heard the statement that the house needs to have the 10% to pay for their expenses. What happens if the winning ticket doesn't show up? When you have a board everybody in the house can see who won. When dealing with a tab who gets the pot?

The Committee received a letter from the representatives of the National Football and National Basketball Associations sent to Attorney General Racicot. They have some real concerns about using professional sports events in a gambling enterprise. Dealing with gambling with professional and amateur sports has historically been one of great concern. These types of concerns are increased when gambling such as this is being expanded. He

referred to the problems baseball has had. There is great concern when gambling affects amateur sports.

Harley Warner and the Montana Association of Churches, which is an organization of 600 different churches throughout Montana, oppose any attempt to expand authorized gambling.

Lois Menzies, Gambling Control Division of the Department of Justice, expressed the concerns of the Department of Justice, EXHIBIT 4. The definition of "sports tab" appears general enough to authorize other types of pull tab games. The bill does not indicate how a sports tab game is to be conducted. No record is kept of the winners. There is no cap on the amount that may be wagered on a sports tab game or what may be paid to winners. A sports tab operator can retain up to ten percent of the total amount paid for all tabs sold. A sports pool operator is permitted to retain a portion of the wagers which moves away from the concept of a game being a trade stimulant into commercial gambling. The immediate effective date gives the Gambling Control Division inadequate time to adopt rules and train personnel on the regulation of sports pools.

She entered a letter from the National Basketball Association written to Attorney General Racicot opposing HB 503. EXHIBIT 5.

Questions From Committee Members:

REP. ELLIS asked what are the justifications for raising the cost of chances and payout? REP. DAILY answered it would be pretty hard to have a \$5 limit because it wouldn't be beneficial to playing the game. The reason he proposed raising the amount was the fact people were already playing the sports pools in Montana for larger sums of money. He would like to see a base of \$500 be set. He doesn't think of these forms of sports tab gambling as serious gambling.

REP. ELLIS reminded you proposed in this bill to allow the house to take a cut. Apparently you have an idea of what that cut ought to be, which makes it commercial gambling. Have you thought about taxing this type of gambling? REP. DAILY said if the house makes a profit on this form of gambling should the winner not collect, that is profit for the business, and the business pays taxes on any profit anyway. Expenses are deductible; it costs to buy the sports tabs and there are occasions when they don't sell the entire board and the business has to buy it and loses.

REP. ELLIS said it is easy to understand how a machine can be checked to see how much tax is produced. How would you know in the case of tabs how many tabs were sold, or how many cards? How would the state regulate that? REP. DAILY stated all of the tavern owners he knows are reputable businessmen who are not conniving and cheating on their taxes.

REP. BARNETT asked if a record is kept of who pulls a tab? This

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 5 of 26

bill would eliminate that card. REP. PAVLOVICH said no record is kept of the name of the purchaser of a pull tab. They run both. He doesn't keep a record of a board either. It is thrown away. He doesn't show the board to the IRS or the State of Montana who got the \$100 or \$500. People who come in and collect don't want anybody else to know they won. On Super Bowl Sunday they ran 42 boards that ranged from \$1 to \$5 a pulltab chance or square.

REP. BARNETT further asked if there is any limit on the number of boards or cards you can have? REP. PAVLOVICH said there is no limit. When one is sold, another is put up. Sometimes they run ten or twelve when it is for a big event.

REP. SCOTT noticed there is a serial number by the manufacturer in the corner. If you don't sell a complete card, it has no value? You do not use this card again? REP. PAVLOVICH said that is right. Once one tab is gone the board is gone, it is completely dead. The serial number is the manufacturer's number and usually starts with a letter. These are bought by the case and there are usually 144 of them in packages of 12. There are usually 6 to 8 different colors. The serial number determines the winner of what board. Sometimes people play more than one board at a time.

REP. LARSON asked if he would object to HB 503 if the limit were kept at \$500. Joe Roberts said that is the major objection. There is still the issue of commercialization on sports tabs. The concerns the professional sports leagues are talking about are still big concerns. The major objection is the substantial increase in values. He didn't know if he would support it even if that was returned to what is presently in the law.

REP. BENEDICT asked if any of the 600 churches he represented did any form of gambling. Mr. Warner said Yes, they all do. However, they have been experiencing an extreme decline over the past four or five years. Bingo playing in the basements of the Catholic churches has declined. They are opposing all forms of increased gambling including charitable gambling. They don't approve of it in churches or any non-profit organizations.

REP. SHEILA RICE thought the Department of Justice brought up some points in terms of the dollar amounts in sports pools being identified, but not sports tabs. Do you have any objection to some amendments that would bring this into compliance with the problems the department had. Specifically, like a better definition and including sports tabs in the dollar value? REP. DAILY had no objections to that. The amendment on sports tabs is from the existing language in sports pools. He also proposed an amendment to limit sports tabs to \$500, so even if the prices were increased for sports pools, he didn't want the price increased for sports tabs. That is the way this has been happening and he wanted it left that way.

REP. RICE said part of the take goes to the operators of sports

BU021291.HM1

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 6 of 26

tab games. There is a cost involved where the sports pool costs are probably borne by the beer distributors for free. Would you have an objection to taking that part out, especially if the limits are fairly low? Ten percent would be a pretty small dollar amount to be kept? **REP. DAILY** preferred that not be done because the bar owners are taking a chance when they sell those tabs that they won't collect the full amount. They could lose some money. However, they could live with the bill if that were taken out. What they really want more than anything else, is this to be passed to allow sports tabs to be sold in Montana.

**REP. BACHINI** asked what if that 10% were reduced to 3% or 5%?  
**REP. DAILY** said that would be fine.

**REP. ELLIS** stated you said the bar owners are taking a chance. It doesn't matter how many tabs are pulled off a pulltab board, the bar is going to win 10% of that money. No percentage would alter the odds whether all the tabs are sold or not. **REP. DAILY** said there is a possibility when you start to sell a board, it would not all be sold. If it isn't all sold, they run it on a later game, which is very common. On a sports pulltab, once you have sold one sports pulltab, you have to pay the winner. The tavern owners have the possibility of making a minimal profit. Everyone in Montana is having a difficult time. This is one way that perhaps can help keep a business alive.

**REP. STELLA JEAN HANSEN** asked what is done with the money when tabs are sold. Is it set aside in a pool or go into the till with other monies, and when there is a winner how it is paid out? **REP. DAILY** said the money is set aside in a special place.

**REP. CROMLEY** said your testimony indicated a sports tab definition is general enough to authorize other pulltab games. What other pulltab type games are there now? **Ms. Menzies** said they come in a variety of games. She showed the Committee some samples of such games. They are on a spindle and work on the same principle. You pay the amount, pull off the tab, open it up, and if your number matches some predetermined number on file, you are a winner. This pulltab doesn't look much different than a pulltab off a sports tab board. Another example of a pulltab is the break-open card scheme. The same principle is used. The card is broken open and a symbol is matched. **EXHIBIT 3A.**

**REP. PAVLOVICH** explained on a spindle there are over 100 tabs, and on his there are only 100. Those are sold by thousands, ten thousands, twenty thousands if you wish. This one has only two numbers. On the other one you have 2, 3, 4, 5, and 6 numbers on it. That is the difference between a sports tab and a pulltab. **Ms. Menzies** did not disagree as far as the numbers on them were concerned. Nothing in the bill would prohibit someone from pulling 100 cards from here, placing them on a sports tab board and using it that way. The definition doesn't say that it is a combination of numbers, or that numbers have to comply with the digits in a game. The objection of the department is that the

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 7 of 26

definition does not specifically prohibit this from occurring.

REP. PAVLOVICH said under the definition of a sports tab, that is what is called a sports pool. It says 100 combinations. That is the definition of a sports tab. Same principle, same idea on a sporting event, but there can only be 100 tickets sold on that event. That is the definition that is in the bill which is the same as for a sports pool. Ms. Menzies said it doesn't specify those combinations have to be combinations with numbers, for example. Could they be combinations of symbols? In which case you are opening it up to something like this. It needs to be better defined.

REP. BACHINI asked if she could suggest language that would better define the difference between the two? Ms. Menzies would be happy to do that. She would bring it to the Committee tomorrow.

REP. ELLIS asked if the attorney general had looked into ways to be sure of taxing this if it were passed, other than preselling the stamp that goes on the board, so it is known the tax is collected? Is there any other way of taxing it since it is a form of gambling? Ms. Menzies answered they had not spent a lot of time examining how this particular gambling activity could be taxed. They would probably look to other states that do tax that activity, like North Dakota or Washington State to determine the most appropriate way of doing that. See EXHIBIT 6.

Closing by Sponsor:

REP. FRITZ DAILY stated this is not a pulltab bill. Pull tabs and sport tabs are different. There are only 100 tabs on a sports tab board, the same as a sports pool. If the definition needs to be changed to make that work, he has no problems with that. This is a form of recreation that is used by a lot of senior citizens. It is a convenient way for them to go out in an afternoon, buy a sports tab, watch the football game. They know what their numbers are, they don't have to go back to the tavern to find out if they won. People in Montana enjoy that sort of recreation.

In response to Ms. Menzies' comments as a representative of Marc Racicot, he always says he does not influence the forms of gambling in Montana, all he does is enforce the law. They are here influencing gambling in Montana. It is important for the Committee to know that.

In answer to Joe Roberts' question of what happens if a winner does not show up. It is hard to believe a winner wouldn't show up. It would be almost like not showing up to collect your paycheck. If you have a winning sports tab, you will know it and collect.

As far as the churches are concerned, sports tabs are absolutely not an expansion of gambling. If you go over this bill with just

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 8 of 26

sports tabs, you are not expanding gambling in Montana. If you raise the limits on the amount of the sports pool, you are. If you reduce the payout amount back down to even \$500, he has no problem with that. The constituents in his community asked him to bring this bill to the Legislature. When talking about people, he is talking about the Montana Power Company, Mountain Bell employees, Montana Tech, and he is sure this goes on at other universities in Montana. They use it for fund raisers, and it is an excellent fund raiser for them.

He found it hard to believe the NBA or the NFL would oppose this piece of legislation. Their own games are a game of chance although there is skill involved, and perhaps some luck. That is just the way it is sometimes. When you talk about sports pools, you are talking about sports tabs. The winner is decided solely on chance. There is no other way to influence these types of betting. There is absolutely no skill involved in playing them. This is a recreational type of gambling, not big time gambling. He feels comfortable with the bill and hoped the Committee would pass it.

REP. BACHINI said no executive action would be taken until Ms. Menzies presented the suggested language to be changed tomorrow morning.

REP. PAVLOVICH left information on gambling with the Committee. EXHIBIT 7.

HEARING ON HOUSE BILL 378

Presentation and Opening Statement by Sponsor:

REP. BOB PAVLOVICH, HD 72, Butte, explained HB 378 is a very simple straightforward bill. It is an Act prohibiting the sale of tobacco products to and the purchase of tobacco products by persons under 18 years of age; preempting local government regulations; and providing penalties. This bill prohibits minors from buying cigarettes. Right now Montana is one of three states that does not have any statutes prohibiting a minor from buying cigarettes.

Proponents' Testimony:

Jerome Anderson is a Lobbyist representing the Tobacco Institute, an organization founded and funded by the producers and distributors of tobacco products across the country. EXHIBIT 8. This group represents the tobacco industry before the United States Congress and before legislative bodies throughout the United States. Two years ago it was brought to his attention for the first time that Montana had no statute regulating sales of tobacco products to minors. This occurred because of the introduction into the Senate in the 1989 session when it was decided to regulate the sales of tobacco products from vending machines. That bill was unsuccessful probably because of enforcement problems. They realized then the necessity of some

BU021291.HM1



HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 9 of 26

form of legislation. HB 378 is the result of a great deal of deliberation. He passed out several pieces of information discouraging the use of tobacco by minors. **EXHIBITS 9.** Basically, tobacco manufacturers have always believed the decision to use or not to use tobacco is the choice to be made by informed adults. There is a plethora of information in the United States today regarding tobacco products by which people can be informed. Activities of the tobacco industry for many years have been designed to discourage the use of their products by minors. The material in **EXHIBITS 9** describes these actions. Some of the material in that packet shows the materials distributed to retailers and others throughout the State of Washington where similar legislation has been instituted. The material is provided free of cost by the Tobacco Industry. Montana, Wyoming, New Mexico and Louisiana are the only four states out of the 50 states and the District of Columbia that do not have any restriction on the sale of tobacco products to minors. The states with statutes have various age limits.

They believe Montana should join the majority of states and District of Columbia and legislate the sale of tobacco products to minors. HB 378 not only prohibits the sale of cigarettes, but also prohibits sampling of all tobacco products. The industry has a policy to restrict the delivery of samples of the product to those under the age of 21. Montana's age limit as far as minors are concerned is set by the Constitution for all purposes except for alcohol beverages at 18 years of age and that is why this bill says 18 years. The bill prohibits the sale of tobacco products within 500 feet of any place having to do with minors. It also prohibits the distribution of a sample. It places limits on places where tobacco products may be sold in vending machines. It provides penalties for knowingly selling to minors. They have no objection to amending the bill to change the penalty to a civil penalty from a criminal penalty.

This bill sets the restrictions for selling tobacco to be effective across the whole state. They ask the Committee's approval of the legislation.

**Mark Staples, Executive Director of the Montana Association of Tobacco and Candy Wholesalers** who are the distributors of tobacco products, said this problem was studied at their conventions, and it was unanimously concurred they should go along with the other states in restricting the sale of tobacco products to minors. HB 378 creates a desire for uniformity in the laws statewide and also has enough teeth in it to have the desired effect without being overbearing. He urged support.

**Tom Dowling, Food Distributors Association,** has some concerns. It is his people who are actually going to sell these products. As the bill is drafted it creates a crime which amounts to a high misdemeanor which brings with it a lot of difficulties as far as civil rights. They would support the bill if the criminal aspect was removed from the bill and a civil penalty was imposed. This

BU021291.HM1

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 10 of 26

can be done by changing two words in the bill.

Earl Thomas, Executive Director of the American Lung Association, does support HB 378, but has some amendments. EXHIBIT 10. They have been waiting a long time for a minor law.

Mike Parker is Secretary-Treasurer of Pennington's, Inc., Great Falls, Shelby and Havre. They are wholesalers of candy, tobacco, and cigarettes among other products. The Association and the company support such restrictions. They feel the decisions regarding use or non-use of tobacco should be made by informed adults. The most recent information campaign put together by the Smokeless Tobacco Council prepared pamphlets directed at retailers and consumers which were distributed with their orders. They think the restrictions on the sales and sampling in HB 378 are appropriate, and the penalties attached are also appropriate. He urged favorable consideration of this bill.

Scott LeProwse, President of D & R Vending, Inc., Bozeman, operates cigarette vending machines in four counties in Montana. He welcomed the uniformity the preemptions in HB 378 afford his company under which to operate. He sells to the vending industry that supports this type of legislation. They asked for the Committee's support.

Paulette Kohman is Executive Director of the Montana Council for Maternal and Child Health which consists of members of the health community and other interested parties. They are concerned with the use of tobacco products by women and children. She passed out fact sheets about tobacco use. EXHIBITS 11. This bill has some weaknesses. They support the amendments offered by Mr. Thomas. In addition they would appreciate having some licensing penalties be put in the bill. They could supply proposed amendments if the Committee was interested in doing that. There are no places in Montana into which persons under 18 years of age are not permitted access.

John Delano, representing Phillip Morris, Ltd., said they had spent considerable time working on this bill, and are in favor of it.

Rosetta Kamlofsky, representing the American Cancer Society, is supporting this bill with reservations. It is a minor bill which is an important issue for them. They concur with the American Lung Association and wish the Committee would take the amendments under advisement. They are interested in legislation concerning the health of minors as well as adults.

Roger Tippy, representing R.J.Reynolds, said the companies are proudly in support of this campaign and legislation which will enable the information in the packets passed out to be provided to everybody. EXHIBITS 9. On the issue of preempting the local governments, companies train their sales forces and they like to know what the rules of the game are statewide. City ordinances

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 11 of 26

and local codes are not easy to locate and look up. They resist the amendment taking out Section 4 and support the bill otherwise.

Bill Verwolf, Helena City Manager, very strongly supports the bill, and takes the opposite position on the amendment removing the restriction on regulation by local governments. This restriction applies also to general governments and to self-governing powers. They basically oppose any further restrictions on self-governing powers whether it be in this bill or any other bill.

Annie Bartos, is a Registered Nurse and was a board member of the American Lung Association of Montana, and supports HB 378 as amended by Mr. Thomas, Executive Director of the Lung Association. It is a bill that goes in the right direction to protect our youngsters in the State from smoking tobacco. They urged passage of HB 378 as amended by Mr. Thomas.

Jerry Loendorf, representing the Montana Medical Association, supports HB 378. It has been well explained. The effects of tobacco use are well known. They support the first three amendments proposed by the American Lung Association. They would not oppose their fourth amendment, nor oppose the proposed amendment to change the penalties from criminal to civil.

There were other proponents - see the Visitor's Registers.

Opponents' Testimony:

Mike Males, Bozeman, MT, is a free lance writer and researcher who has spent quite a bit of time studying how adolescents make decisions. He is concerned about the general philosophy in HB 378, regardless of whether it is amended or not because of its tendency to promote the very behaviors that it is designed to prevent. We are missing a chance to do something positive here by asking for mandatory, punitive legislation. Missing from the proponents' testimony and understandably so, is any reference as to whether this kind of legislation actually does reduce tobacco use by minors. There are literally hundreds of state years of experience in this kind of legislation with no evidence whatsoever that it actually reduces tobacco use by minors. He has done a study of the situation "Smoke by Youth in Montana" which is on page 2 of his written testimony EXHIBIT 12. Cigarettes are referred to for all tobacco products because they are responsible for 99% of all tobacco related deaths. Montana statistics show Montana youth are using tobacco less than those nationally. Evidence nationally shows laws do not reduce tobacco use. In HB 378 there are no penalties for minors. Section 2 (3) specified the store clerk would be responsible. Basically HB 378 is very punitive towards minors and store clerks and lets most of the others off the hook. The tobacco industry would not be promoting this legislation to self destruct. This type of legislation does not have any effect on smoking by minors. He asked the Committee

BU021291.HM1

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 12 of 26

to weigh the proposed alternatives before any action is taken on this bill.

REP. BRADLEY has a bill which allows teen-agers in grades 7-12 in October 1991 to vote on whether retailers should refuse to sell tobacco to minors. This makes the decision the minor's choice. In Bozeman out of 2,000 high school students who voted, 79% voted for tobacco-free schools.

Questions From Committee Members:

REP. BENEDICT said you have heard the opposition testimony that this is a sneaky piece of legislation. How do you feel about that? Mr. Thomas said some people will feel it is a public relations bill, but there will be another minor bill drafted. Hopefully these two can be brought together and a good piece of legislation developed.

REP. BACHINI asked comment on the opponent's testimony about the laws in other states not doing the job intended. Jerome Anderson explained the industry started about three decades ago to make efforts to discourage use of the product by minors. The most recent Surgeon General's report states the preference of smoking among high school seniors dropped from 29% to 20% between 1976 and 1983, and it has been fluctuating between 18% and 19% since then. That indicates the efforts taken by all people concerned with the use of tobacco products have been effective. He understands the position taken by the opponent with regard to REP. BRADLEY's bill. He doesn't understand his argument to the effect that having no regulatory statute on the books at all would be better than having restrictions and some regulation on the sale of the product. Those selling the product would be subject to penalties.

The amendments proposed by Mr. Thomas are first related to proof of identification and proof of age, requiring the use of the driver's license. That is already included on page 1, lines 18 through 21. Mr. Tippy urged uniformity and regulation throughout the State to leave the preemption provision in otherwise there would be a hodge podge of ordinances and regulations throughout the State causing difficulties in the retail business. The defense for a retailer if charged could be that he relied upon proof of identification whether it is a driver's license or such other identification which means a picture and has reasonable grounds to believe that by appearance the person appears to be the age he represents himself to be. This is a good faith effort on the part of the industry. REP. BRADLEY's bill provides the referendum provision which is to simply have a referendum among the schools, and have the students determine if they want to have a tobacco-free school, and leave it at that without any regulation statutorily. That is not an effective way to handle it.

REP. ELLIS asked comparison of the sale of alcohol to minors

BU021291.HM1

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 13 of 26

statute regarding proof of age and reasonable belief if the person appears to be over 18 when used as defenses to the prosecution and HB 378's defense for sale of tobacco products to minors. Mr. Staples said he couldn't be sure.

REP. ELLIS asked about the argument that requirement by one's peers is more likely to have an effect. Mr. Thomas thought peer pressure can have a big effect. That would delay this process by at least two years. They have a small enrollment in the Bozeman high schools. That might not be totally representative of what the whole State feels.

REP. CROMLEY asked if there can be a conviction in a civil defense. Does it make sense to have convictions for civil offenses and increase penalties for additional convictions. Mr. Anderson said the question was presented to him by Mr. Dowling who represents the food distributors association in regard to changing the penalty from a criminal to civil penalty. They have no objection to that so long as it fits within the statutory scheme in Montana. In many states the penalty is civil rather than criminal.

REP. RICE asked to contrast this statute with the sale of alcohol to minors statute. Is there a clause in the sale of alcohol to minors statute that would propose reasonable reliance on proof of age and reasonable belief that a person appears to be over 18 are defenses to a prosecution? Mr. Staples advised the alcohol statute is under the age of 21 rather than 18. He didn't think that language is in the statutes, but was not sure.

REP. RICE asked if a bar owner or retailer sold alcohol to a person under 21 regardless of a faked ID, etc., are they still liable under the law? Mr. Staples said that would be a per se violation. In his experience both as a prosecutor and a defense attorney, that is reasonable reliance language in this statute but not in the sale of liquor to minors statute; those would still be viable defenses in any court of law. Because there is a purposely and knowingly provision in both these statutes, then if you could prove this person had reasonable reliance on what somebody presented them, a fake ID that nobody could figure out was fake, then it cannot be said it was done purposely and knowingly. Yes, it would be a defense.

REP. RICE asked if Part B, which is the reasonable reliance on proof of age, etc., were eliminated would it strengthen this law in terms of its ability to prevent sales of cigarettes to minors? Mr. Staples, speaking for himself, thought those defenses would still be in there. It would be nice to have that in the bill so it would not have to be given in jury instructions should a trial become necessary. It doesn't strengthen or weaken it. If that makes the difference between acceptance of the bill and not accepting it, it would be the lesser of evils to have that taken out than to have the bill fail. Those defenses would be viable.

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 14 of 26

Mr. Anderson, in answer to the same question, feels that provision should be left in this legislation to ensure that defense is available to a proprietor of an establishment in the event he is charged. He agrees this defense could be raised whether that language is there or not, but you couldn't be assured that jury instructions or instructions from the court would include that that defense should be considered by the jury if there is a prosecution and a trial. Legal language in the bill ensures that those instructions would go to a jury and a jury would be required to take that defense into consideration.

REP. STEPLER said on Page 2, lines 7-10 of the bill it states that it is unlawful for a person to engage in tobacco product sampling in or on any public park, street or sidewalk that is within 500 feet of a center of youth activities. What is the penalty for that? Mr. Staples said the same penalties for the under age sale would apply to all violations of sale or distribution, and that would include sampling.

REP. CROMLEY asked the definition of sampling. Mr. Staples stated the definition of sampling is in Section 1 (4) "Sampling" means the distribution of tobacco product samples to the general public for tobacco product promotional purposes. This means giving free samples to anybody.

REP. CROMLEY asked if he had the figures available for the other five states that are similar to Montana. Mike Males answered that is an important figure. It shows that youth tend to reject the adult examples to smoke. That is very important. Wyoming has a lower smoking rate than the nation as a whole. He would try to get the figures requested.

REP. BACHINI commented that unfortunately the Committee will not be able to hold this bill until REP. BRADLEY's bill gets into the Committee. This is an important bill and we will act on it.

REP. STELLA JEAN HANSEN said on Page 2, subsection (3) concerns her. What about a mother who sends her little kid to the store to get cigarettes? Is the liability placed on the person selling the cigarettes or on the person who sent the child? Mr. Anderson advised it is unlawful to sell and unlawful to purchase, and the mother who sent her kid there should not do so. A store clerk should not sell such a product to a juvenile no matter who sent him.

REP. STELLA JEAN HANSEN said on Page 4 (d) what about a fake ID being taken by a store clerk? Would he be protected? Mr. Anderson answered reasonable reliance on proof of age and a reasonable belief that a person appears to be 18 years of age or older are defenses to a prosecution under this section. A retailer conforming to those specifications would certainly not be held liable.

Closing by Sponsor:

BU021291.HM1

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 15 of 26

REP. PAVLOVICH stated he would prefer his bill be left as it is without the amendments proposed by the Cancer Society. As far as the civil and criminal procedure is concerned, he has no preference, perhaps an attorney should be consulted. He did not want to wait for the students to vote on it. They are not going to make the laws, the Legislature makes the laws.

EXECUTIVE ACTION ON HOUSE BILL 378

Motion: REP. PAVLOVICH moved HB 378 DO PASS. He also moved the amendment to change the procedure from criminal to civil. The amendment was unanimously adopted.

Motion: REP. CROMLEY moved on Page 3, line 8, following "sale," insert "purchase,". This amendment was also unanimously adopted.

Motion: REP. RICE moved to amend on page 4, lines 5 through 8, dealing with reasonable reliance be stricken. She feels it is too easy a defense to say the kid sure looked 18 to me.

REP. STELLA JEAN HANSEN opposed this amendment. She had sold cigarettes in an ice cream store for about 20 years. They had lots of minors, they were only four blocks from a high school. You are putting a tremendous burden on the store keeper. Kids can think up many, many ways to get cigarettes, and this bill won't stop them very much either. So the burden of proof is put on the store owner, and with the sophistication of teenagers today, it is very difficult to tell who is 18 and who is not unless everybody under 30 is carded.

REP. LARSON spoke against that amendment. If a person sells alcohol and tobacco products, proof of age on Page 1 Section 1 (3) spells out criteria for judging whether a person is 18 or not. If the person presented identification such as a driver's license and a picture, and professes to be 18 or over, that is reasonable proof he is 18 or over, and is defensible.

REP. DOWELL thinks this amendment should be adopted. We need to start setting some health policies, and one way is to make this as tough as we can.

REP. KNOX opposed this amendment. The retailers need this protection.

REP. RICE withdrew her motion.

Motion/Vote: REP. CROMLEY moved on Page 2, line 12 following 'or' strike "attempt to purchase or receive or attempt to". That basically takes out attempt as a crime. He doesn't believe an attempt to purchase or receive should be a crime. The motion was unanimously adopted.

REP. TUNBY said on Page 2, Section 2, (b) says places to which persons under 18 years of age are not permitted access, that is

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 16 of 26

unworkable. You can't have a vending machine in any place where a person under the age of 18 is permitted access. These machines must be in hundreds of places now where teenagers have access. There are family bars where young people go in all the time.

Mr. Anderson stated Page 2, Section (4) provides those places in which a vending machine may be used. Vending machines may be used in factories, businesses, offices, and other places not open to the general public. They can also be used in places to which persons under 18 are not permitted access. If that's a bar, you can have a vending machine there. In places where alcoholic beverages are offered for sale vending machines are o.k. there. Where vending machines are under the supervision of the owner or employee of the establishment. That could be a restaurant or bar as long as the machine is under supervision. This is a general uniform application of this type of legislation throughout the United States.

Motion: REP. DOWELL moved to strike Section 4 on Page 4. This is a local government preemption.

REP. BACHINI disagreed. He thinks there should be some uniformity within the state.

REP. PAVLOVICH disagreed with the proposed amendment, too. If every little community is going to be different, it would be very hard for the cigarette people to sell their product. It should be uniform throughout the State of Montana.

REP. KNOX opposes the amendment. There should indeed be uniformity, otherwise it would create endless problems all over the state.

REP. LARSON opposes the amendment. It would kill the bill.

REP. BARNETT wanted to go on record as opposing the amendment.

REP. RICE asked why is it so important other than the fact it makes it easier for the sellers. The local governments could choose to be silent and comply with the state law. REP. LARSON explained the bill becomes unworkable. There are 56 counties and some 1500 taverns, and many municipalities.

Vote: The Dowell amendment failed. Voting for the amendment were REPS. RICE, STEPPLER, CROMLEY, DOWELL, SCOTT. Motion fails 5-13.

REP. McCULLOCH asked if people under 18 who buy cigarettes from directly supervised vending machines fall under these penalties? That was one of REP. BACHINI's concerns also.

REP. STEPPLER said on the bottom line of Page 3 the owner or employee is responsible for supervising the vending machines. That seems to be taking the owner out of the picture, and make the employee responsible if anything happens. Mr. Anderson



HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 17 of 26

responded, if a owner has a business where vending machines are located, and he goes away to another state or leaves for a period of time, he turns his place of business over to somebody else who is responsible for supervising that place of business. It would be pretty tough to be nailed for an illegal sale when the owner is not there. If the owner is on the premises, the owner would be responsible.

REP. ELLIS thought the responsibility involved with this legislation is incumbent on anyone who has a vending machine to take precautions, so it creates a problem for them. It makes it tougher for the vending machine operator.

REP. KILPATRICK said if a person was told they were responsible for the vending machine, they had better know that and accept that responsibility.

Vote: The motion HB 378 DO PASS AS AMENDED was adopted with REPS. STEPLER, CROMLEY, AND SCOTT voting NO. REP. WALLIN was absent.

HEARING ON HOUSE BILL 308

Presentation and Opening Statement by Sponsor:

REP. WM. "RED" MENAHAN, HD 67, Anaconda, said this bill is different from HB 378. It is 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. This is a pulltab bill. He passed around some pulltabs that have three or four numbers on them. The prizes are for peanuts, candy, etc. He also passed around a punchboard. This bill is specifically limited to \$2.00 for any gambling. There is a license fee and 5% of the value of that board goes into the appropriate funds. Basically it has all the rules and regulations required by the Department. It describes what a pulltab and punchboard are, and rules and regulations of the bill. Enforcement authority is given to the Department of Criminal Justice, the peace officers, etc. There are penalties for altering or changing the punchboards or pulltabs.

The "Worldwide Press" business in Great Falls makes punchboards and ships them to the State of Washington and to other states that have legalized them. One of their biggest customers is in the Far East where punchboards and pulltabs are played a lot. Most of the time these are used as trade stimulators. During the fishing season the neighborhood bars put up fishing tackle to be won on a punchboard. Usually it is a dime for a chance. Others are for food or candy. That is what the neighborhoods do for merchandising.

Proponents' Testimony:

REP. PAVLOVICH, HD 72, Butte, presented this same bill in the last session and it was lost on the House floor. He wanted to make a little correction on the fiscal note. It says 12 FTE would be required by the Department of Justice. He has an amendment that would take the Department of Justice out of the bill and leave it up to the local governments and let them collect the tax and supervise the punchboards wherever they may be. Another fiscal note basically comes out about the same on the gross sales. They have these pulltabs in Washington and North Dakota. A pulltab provides different denominations, they have different pay outs for the cost of the chance that is sold, and that is a pulltab that is on a spindle. Normally that pulltab is used for peanuts. All numbers ending in 3, 7 and 9 were free, and the rest were paid for, and all numbers ending in 0 on a Planters Peanut board won a can of peanuts. There are different variations of pulltabs.

There is quite a distinction between a pulltab talked about here and a sports tab. This is a pulltab and there probably are 4000 tickets on it. There are four winners at \$100, 9 winners at \$50, 9 winners at \$20, 18 winners at \$10, 40 winners who will receive \$1,210. There is a definite profit set up of \$790. If they are all sold, and nobody steals any which is very possible, the local governments will get the tax monies. What kind of a tax do you want to put on them? Whatever tax the state and local government says should be paid on them would be fine but they want the local governments to have the money. They need the money more than the state does.

Joe Dugal, Missoula, has been around punchboards for many years. The big prizes in the early times were \$2.50, \$5 and \$20 gold pieces. When the Legislature legalized punchboards in the late 40s, he ran the punchboards for the Atlas Cigar Store. He bought hundreds and hundreds of punchboards for various businesses. Those punchboards had a tax on them according to what the board took in. At that time a 1,000 hole board paid a state tax of \$7.50. That tax stamp was put on the board by the company selling the board. An investigator came around periodically to check the tax stamps on the boards and there was a penalty if the stamp was not there. On top of that the city had a small license fee, which varied from \$1.50 to \$3.00 a board. He never saw anybody ever get hurt playing punchboards. People liked to play them. Not everybody played them, but it was surprising how many people who opposed gambling played them. Ever since the Constitutional Convention and the law that legalized gambling in the state, he has had people ask him when we are going to get our punchboards back. He tells them you have to ask your state representatives to do that.

Mark Staples, representing the Montana Tavern Association, echoed previous proponents' testimony. Members of the Tavern Association say their customers ask them why they had to get rid of

punchboards, and how can they get them back? It wasn't big time gambling. They were asked to support this bill and they wholeheartedly do. At their Convention they resolved to do so and have continued to do so on behalf of the members and the members' customers in Southwestern Montana where punchboards and pulltabs were a way of life. As a person who grew up in Butte, MT he was around them all his life and saw everyone participating innocently in the past. They support HB 308.

#### Opponents' Testimony:

Lois Menzies, Administrative Officer for the Gambling Control Division of the Department of Justice, shared some of the technical concerns the Department has with this legislation. The first one concerns regulations. HB 308 creates a structure for regulating punchboards and pulltab games that is apart from the regulatory structure for all other gambling activities regulated by the Gambling Control Division. See EXHIBIT 13. Regulation would be less complicated and confusing if the provisions regarding punchboards and pulltab games matched those for other gambling activities.

There are also differences in permit fees. Section 6 statutorily appropriates punchboard and pulltab permit and license fees to the DOJ. This procedure is inconsistent with how other gambling permit fees are handled; other permit fees are appropriated by the Legislature for use by the Division.

There is concern about control of the games. Section 7 (2) grants the DOJ "peace officer status with the powers of search, seizure, and arrest to regulate and control persons who offer or make available punchboard and pulltab games". This section makes no reference to the regulation or control of players. A serious problem was encountered by the North Dakota Attorney General's office. A widespread practice for pulltab operators was to leak to certain players information about how much money remained to be made or lost if all remaining tickets for a particular game were purchased. It is unclear whether the Department may regulate the actions of a player who takes advantage of insider information.

Joe Roberts is affiliated with Don't Gamble With The Future, a group of concerned citizens from throughout the state who oppose HB 308. It is truly a grass roots effort that is concerned with where the continuing attrition of resistance to and expansion of gambling is taking us. The people who started this have had public meetings in Kalispell which were attended by over 350 people, in Billings and in Helena. There is further activity going on around the state. As this group becomes known, more people are getting in touch and saying thank goodness someone is starting to raise some questions about the continuing expansion of gambling. There is a substantial number of citizens of Montana who are concerned with how we got into the casinoization of bars and restaurants.

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 20 of 26

They respect the moral point of view for which the Association of Churches stands. He would differentiate them from his group by saying a large number of people are simply concerned about the quality of life in Montana. They are asking whether Montana wants to be a casino state and get into the slot machines and the roulette wheels and the commercialization of gambling. There is a great fear that is where we are heading. The goals of this group in this legislative session is to 'just say no' to any more expansion. This bill is probably as good an example as any.

Punchboards and pulltabs sound fine, they sound pretty innocent, let the bars make a little money, but we're talking about big time gambling. He will refer to that in some information he has from North Dakota and Minnesota. This is not small time stuff. You have heard about blackjack in North Dakota and how great and wondrous that is. He has information that pulltabs are a greater revenue source and there is more money spent on pulltabs in North Dakota than is spent on blackjack. He reminded that when the people of Montana had a chance to speak on this issue in 1982 on an initiative that included punchboards, blackjack, and video games machines, it was decisively rejected by the citizenry of Montana, 68% to 32%, and passed in only three counties, 53 counties opposed it. He does not think people have changed over that period of time. The majority of people are probably against it. There are three gambling bills going on right now. Blackjack is next door and the Senate Judiciary Committee is scheduling the Indian Regulatory Act. He will be available and would enjoy discussing with Committee members any questions they may have.

He referred first to a consulting group called Christiansen Cummings who is a reputable, non-partisan consulting group in the entire gaming industry. They did a review of the gambling in Minnesota EXHIBIT 14 concerning charitable pulltabs which they have in Minnesota. To extract this comment, any state that legalizes commercial games (and pulltabs are certainly commercial games), assumes the responsibility of adequately regulating those games. To legalize gambling without sufficient resources to adequately regulate it is irresponsible government. It invites gambling and exposes the public to risk. This failure is made more serious by the fact that not all forms of gambling present equal problems of control. Games transacted through computer and automatic systems are relatively easy to control and in fact are effectively controlled. Manually transacted games, including pulltabs, punchboards, etc. present much tougher control and enforcement problems; problems that are more expensive to effectively resolve. That is their conclusion.

When he hears about an amendment that would place this under local enforcement and regulation, with the proceeds going entirely to the local basis, his reaction to that is not good. One of the good things the Legislature did about gambling two years ago was the adoption of the federal state regulatory rules and controls so the rules are the same for everybody and the laws are enforced consistently. This was one step forward in this

BU021291.HM1

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 21 of 26

whole business. This bill would let each county decide what their regulations are going to be or what their county attorney thinks, and to keep the revenue only in the county is a serious step backwards. That is a serious defect in this bill. It is being proposed to undo the system as it now stands.

The Attorney General of North Dakota has done extensive investigation of pulltabs in North Dakota. They are called 'jars' there because they are not typically on a spindle, they put them in a large jar. You can reach in and get your tab. In the report EXHIBIT 15 a small number of people were consistently winning large sums of money from pulltab games. They investigated this and discovered that a large number of people had won \$50,000 or more in North Dakota by playing pulltab games. In fact, one person had gross winnings in excess of \$1.5 million. Many of the players were obtaining inside information from certain jar operators. In conclusion the report stated of the 34 gaming sites fully investigated, inside information was found to be a problem in all locations. The results of the investigation are still ongoing.

He also submitted a report from the Grand Forks County state's attorney in which he conducted an investigation and corroborates this. EXHIBIT 16. His investigation indicates there has been continual and extensive use of information by a number of pulltab players in that county. As a result one individual was found to have taken revenues in excess of \$700,000 per audits of award winning tickets.

He had a copy of the Minnesota situation investigative report done through a big study on what happens when charitable pulltabs in Minnesota are allowed; how subject to abuse and cheating they are. This is called "Cheating the Charities"; for some Minnesotans playing pulltabs is just plain poison. EXHIBIT 14.

He thinks the sponsors of this bill are well intentioned. They see it as recreational, it is a traffic stimulator, it makes a little money for the bars. Your point of view needs to be a broader one from the standpoint of protecting the integrity of the game and gambling in general in Montana, and there are serious possibilities of abuse and difficulties of regulation and enforcement. He urged the Committee to look at this bill very, very carefully.

Bill Verwolf, City Manager for the City of Helena, said the city commission has reviewed this bill and asked him to appear here and oppose it. Primarily, for several reasons this bill is an expansion of gambling in Montana, and they are opposed to the expansion of gambling past where they are today. They opposed 21 and every other expansion of gambling. They want Montana to take a break from this constant session after session of finding ways to increase gambling in the state. For that reason and in agreement with the former opponent, he opposes the passage of HB 308.

Susan Donnelly, Bigfork, Montana, and her husband are opposed to any expansion of gambling in the state. EXHIBIT 17.

See the Visitor's Register for other proponents and opponents.

Questions From Committee Members:

REP. KNOX asked her to comment on the proposed amendment that would remove the Department of Justice from enforcement and leave the enforcement of this bill up to the local governments. Ms. Menzies advised the position of the Department concerning that amendment would be in opposition with taking that particular type of gambling away from the Department and putting it under local control. This is in a forum and they want it solely under one jurisdiction. SB 431 in 1989, which was a massive bill, created some pretty sweeping reforms of the gambling laws. The major purpose of that bill was to broaden and standardize regulations and enforcement of the gambling laws. They think this is a step backwards.

REP. BACHINI questioned the fiscal note. He couldn't believe the per capita spending per year in Montana. It is unbelievable. He also has a problem with the additional 12 FTE that would be required within the Department. The Department should have adequate people now because of what is going on with some of the other gambling activities. Richard Ask, Outprogram Manager for the Department of Justice Gambling Control Division, explained in order to estimate the volume of punchboard and pulltab sales, you would have to estimate because they are not a legal game in Montana, and go to states in which they are legal. He called the National Association of Fundraising Ticket Manufacturers and asked them for the names of the states in our regions that had a \$2 bet limit in which the pulltabs and punchboards were sold to taverns. They gave him the states of North Dakota and Minnesota with a \$2 limit and added for contrast the State of Washington which has a \$.50 limit for pulltabs. North Dakota and Minnesota each have a \$200 per capita spending on pull tabs and punchboards. Washington has an \$80 per capita spending on them with a \$.50 limit. There is a conservative approach by cutting it in half, essentially because we have so many other forms of gambling available in taverns. That is where they came up with the \$100. Given the volume of that gambling each of the program managers were asked and then they again asked themselves how many FTEs they thought they would need to handle the additional workload. It essentially came back 12. He checked with North Dakota and Minnesota to see how many people they had to regulate their pulltab sales industry. North Dakota had 11 with a population of about 600,000. Minnesota has approximately 56 people whose job is to regulate the pulltab industry. They have a population of about 4.5 million. He didn't think it unreasonable to request 12 FTEs given the volume of work anticipated.

REP. BACHINI said there are inspectors for keno, video, poker; why do we need so many more when these people are going to be

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 23 of 26

visiting the establishments now that are going to have these pulltabs. It seems this is building another department. Perhaps we are not utilizing the people we have. Why can't the present people be used? Mr. Ask said those people would be used as well. This is an estimate of the impact on each program by the additional volume of gambling to be regulated. It has to go along with that.

REP. PAVLOVICH had some figures from Washington on their punchboards and pulltabs for the period ending 12/31/89. In that 12-month period punchboards and pulltabs gross receipts were \$395 million. Prizes paid were \$271 million, and net receipts were \$123 million, minus expenses of \$84 million. That is a net income of \$39 million. About 95% of their punchboards and pulltabs come from the manufacturer in Great Falls. EXHIBIT 18.

REP. RICE was curious about knowing when to buy, and if insider information would be a problem with these games. What is a way to control that? REP. MENAHAN said on a money board a lot of them mark off what was won and then would know by looking at the board. On a candy board you could see if there was \$10 worth of candy left and only \$3 worth of punches. So someone could punch out the board and take advantage of this situation. One of the things about the merchandise boards and the punchboards, those are the greatest stimulants and conversation pieces. The best thing is to have a variety of prizes. That is basically what it is. He didn't know how the insider information worked since they didn't have that highly valued prizes.

REP. RICE didn't know enough about the gambling laws to know whether or not this percent is about in the ballpark with other kinds of tax revenues. REP. MENAHAN said they take 15% on poker machines. The chances the operators will lose on these is pretty good, because sometimes a board is put up with one prize and maybe somebody pulls the winning number on the first try or so on a \$150 board, there goes your \$150. You are stuck. He thought 5% would be a fair percentage for the operator.

REP. STELLA JEAN HANSEN said punchboards are the only form of gambling that used to fascinate her. Can a person buy a whole board? REP. MENAHAN said yes, someone can buy out the whole board. That is what the operator is trying to do. It is something to keep the customers happy and something to account for, it is a different type of gambling than what poker machines are. These are more of a trade stimulator.

Closing by Sponsor:

REP. MENAHAN closed saying we hear about the casinos. He wants it understood the Butte and Anaconda people who are pushing gambling never envisioned casinos. They were the small time gamblers in this Legislature and it turned out that those people in the outskirts that didn't have any type of gambling were the ones who went for the big casinos because they found a loophole in the

keno law, and they were about to have a whole bunch of keno machines. They never did envision that. They envisioned just a few machines, a few punchboards as trade stimulators. Their goal was never to have big time gambling. All they wanted were the things they did at home, like the whist tournament they had in Glasgow, etc. That is all they wanted. Just those things their people do at home. They are not trying to come in and run some fast action game on someone. He had this bill in in about 1975 and so when these other things started spiraling, look what happened. They were always trying to keep the neighborhood tavern small time and keep the people happy in this type of situation. If the Committee wanted to cut it down to a \$.50 amount to bet, or even \$.25, that would be alright. They would just like to have them as a trade stimulator. He would appreciate support.

He offered a video on Worldwide Press out of Great Falls that hires a lot of handicapped people who make the punchboards, etc.

#### EXECUTIVE ACTION ON HOUSE BILL 479

Motion: REP. SHEILA RICE moved HB 479 be brought off the Table.

Discussion: She had asked this bill to be Tabled for lack of enough information. Amendments have already been adopted.

REP. SONNY HANSON asked why this bill is being reconsidered. It was Tabled because of a conflict with SB 26, and the Committee wanted to wait until SB 26 could be heard. He was discussing the Section in SB 26 that deals with 17-6-308 MCA. EXHIBIT 19 is the basis of HB 479 which basically allows the Investment Board to invest in non-profit organizations, such as hospitals. They would have to follow through with the same regulations required for other eligible borrowers. That is what the amendments did to HB 479 before it was Tabled. The investment requirements for the Investment Board is that they will come up with 80% of the money, the other 20% has to be generated and is what the banking institution will have to hold in their portfolio. If a local banking operation is very interested in that particular expansion to the nursing home, the bank would look at it and see if they could participate in it for 20%, or maybe two or three banks could jointly participate on the basis of 20%. The 80% majority of that expansion would come from the Investment Board. He views this as an outlet to allow the Investment Board to participate in a non-profit expansion within the State, and also encourage the local banks to take a piece of the action. It has merit.

REP. LARSON spoke against the motion to take this from the Table because we have an economic development subcommittee in this group that is planning to try to develop a comprehensive plan for economic development in Montana. This bill probably should be part of the package that group considers because we are trying to get a big picture on how to handle investment monies in Montana.

REP. BACHINI saw a problem with that because of the transmittal



HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 25 of 26

date. Some action has to be taken if the Committee sees fit to take it from the Table.

REP. RICE thought this bill should be acted on rather than delaying it by putting it in a subcommittee.

REP. KNOX reluctantly spoke against this motion. There is obviously limited funds to invest and those funds should indeed move to tax paying situations.

REP. RICE reminded one of the things Dave Lewis said is that there hasn't been a line around the capitol and that the instate investment fund is actually well below its ceiling for instate investments in profit making entities. Opening it up to non-profit entities in many cases can create jobs with instate investment dollars. That is what we want to do with those dollars.

REP. BACHINI said he had no problem taking it from the Table since they will have to meet the same criteria as the others.

Motion/Vote: Motion to take HB 479 from the Table was adopted 14-4 with REPS. KNOX, STEPLER, BARNETT AND STELLA JEAN HANSEN voting NO.

Motion/Vote: REP. RICE moved HB 479 DO PASS AS AMENDED.

Discussion: Paul Verdon explained the Committee members do not have copies of the amendment that was previously adopted. EXHIBIT 20. That amendment is the same as EXHIBIT 21.

REP. SONNY HANSON pointed out the data on Page 13 of EXHIBIT 19 they are changing that and authorizing investments in subsections (2 and (3) subject to the provisions of rules adopted by the Board. This is a federal requirement, and that is why it is being changed. As amended HB 479 will in effect become paragraph (4) underneath that Section.

REP. WALLIN asked when SB 26 would be heard. Will SB 26 be incorporated in HB 479? REP. BACHINI said it would not be heard until the next half. Mr. Verdon explained SB 26 is an entirely separate bill from this. If it is passed, it strikes two full subsections out of this Section because the Supreme Court about three years ago ruled it unconstitutional for the Board to guarantee bonds. They had to take out subsection (2), and they took out the last sentence of subsection (1). Those deletions were made to conform with the Supreme Court decision, but the rest of the Section stays intact. That just takes out the bonding guarantee, it doesn't affect anything about loans.

REP. RICE had really looked into this. She had talked to the Board of Investments, the sponsor, the sponsor of SB 26. This in her opinion is good bill, and it should be passed.

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

February 12, 1991

Page 26 of 26

REP. WALLIN said he will vote for the bill, but as far as building nursing homes and hospitals, we already have in Montana health facilities that sell bonds at state rates and local hospitals and rest homes, etc. can borrow by going through bonding through the state. This isn't going to add on a lot of bonding guarantees. It would be more borderline than having to go through a bonding company because it would be more risky and wouldn't work for a nursing home.

REP. STELLA JEAN HANSEN asked who would it work for?

REP. WALLIN didn't know what those who couldn't qualify would do if they couldn't qualify for bonding and dump it on the state. So there would be more marginal credit, which is what is wrong with this.

Mr. Verdon reminded the Board of Investments lends money under this Section, but this is an investment, it is not a grant. The Board of Investments is charged with making a profit on any investments they make. The nursing home had said if they have to pay going interest rates, they can't afford that. The Board of Investment is authorized to make these loans, but they also have to earn money.

REP. SONNY HANSON saw it as a means for the local community financial institutions to participate with the development of a hospital, etc. It is an additional tool.

Vote: Motion HB 479 DO PASS AS AMENDED was unanimously adopted.

ADJOURNMENT

Adjournment: 11:15 A.M.

  
\_\_\_\_\_  
REP. BOB BACHINI, CHAIRMAN

  
\_\_\_\_\_  
JO LAHTI, SECRETARY

BB/jl

**BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE**

DATE Feb. 12, 1991

[illegible]

HOUSE STANDING COMMITTEE REPORT

February 12, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 479 (first reading copy -- white) do pass as amended .

Signed: Bob Bachini  
Bob Bachini, Chairman

And, that such amendments read:

1. Page 3, lines 5 through 16.

Following: "assistance" on line 5

Strike: remainder of line 5 through "investment" on line 16

Insert: ". The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit corporations"

EXHIBIT 1

DATE Feb. 12, 1991

HB 503

*Exhibit #1*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 503

Submitted by the Gambling Control Division  
February 13, 1991

1. Page 2.

Following: line 3

Insert: "(3) "Sports tab" means a folded or banded ticket with a face covered to conceal a combination of two numbers with each number ranging from zero through nine."

Renumber: subsequent subsections

2. Page 2, line 4.

Strike: "tab"

Insert: "tab game"

Following: "a"

Insert: "gambling enterprise conducted on a"

Strike: "100"

Insert: "sports"

3. Page 2, lines 5 through 7.

Strike: "that" on line 5 through "tab" on line 7

Insert: ". A person may purchase a sports tab from the card"

4. Page 2, line 8.

Strike: "any"

Insert: "a"

5. Page 2, lines 8 and 9.

Strike: "in" on line 8 through "animals" on line 9

Insert: "as provided in 23-5-502"

6. Page 2, line 11.

Strike: "tabs"

Insert: "tab games"

7. Page 2, line 12.

Strike: "tabs"

Insert: "tab games"

8. Page 2, line 15.

Following: "(1)"

Insert: "(a)"

Strike: "recording"

Insert: "conducting"

9. Page 2, line 16.

Following: "tab"

Insert: "game"

10. Page 2, line 17.

Following: "or"

Insert: "sports"

11. Page 2, line 19.

Following: "tab"

Insert: "game"

12. Page 2.

Following: line 21

Insert: "(b) In addition to meeting the requirements in subsection (1)(a), a card used for conducting a sports pool game must contain 100 sports tabs with each tab containing a different combination of numbers. The sports tabs must be purchased from a manufacturer licensed under 23-5-152."

13. Page 2, line 22.

Following: "A"

Insert: "sports tab or"

14. Page 2, lines 22 and 23.

Strike: "or" on line 22 through "tab" on line 23

15. Page 2, line 24.

Following: "tab"

Insert: "game"

16. Page 3, lines 5 and 6.

Strike: "An" on line 5 through "a" on line 6

Insert: "A"

17. Page 3, line 9.

Following: "tab"

Insert: "game"

18. Page 3, line 10.

Following: "all"

Insert: "sports"

19. Page 3, line 18.

Following: "or"

Insert: "of the total amount paid for all"

Strike: "tab"

Insert: "tabs sold"

20. Page 3.

Following: line 18

Insert: "(4)(a) A sports tab game may be conducted only in conjunction with a professional or collegian sports event in which the participants in the event are natural persons.  
(b) A winner in a sports tab game is determined by matching the numbers on the sports tab with the last or only

digits of the score of the sports event at specified intervals during the event or at the end of the event."

---

The term "sports tab game" is defined as follows:

(4) "Sports tab game" means a gambling enterprise conducted on a card to which sports tabs are attached. A person may purchase a sports tab from the card for the chance to win money or other items of value on a sports event as provided in 23-5-502.

EXHIBIT 2  
DATE Feb. 12, 1991  
NO. 503

Amendments to House Bill No. 503  
First Reading Copy

Prepared for Rep. Pavlovich

February 6, 1991

For the Committee on Business and Economic Development

Prepared by John MacMaster

1. Page 3, line 7.  
Following: "consideration"  
Insert: "not exceeding \$5"



EXHIBIT 3A  
DATE Feb. 12, 1991  
HB 503

Serial V-3539  
BROWN

Home MONT ST

50c

Visitors MONT Y.

PAYS

\$40.00

EXHIBIT 3A  
DATE Feb. 12, 1991  
HB 503

Serial V-3539  
BROWN

Home MONT ST

50c

Visitors MONT Y.

PAYS

\$40.00

**Exhibit 3A contained 2 sports tab boards. The originals are stored at the Montana Historical Society, 225 North Roberts, Helena, MT 59601. (Phone 406-444-4775)**

STATE OF MONTANA  
**DEPARTMENT OF JUSTICE**  
GAMBLING CONTROL DIVISION

EXHIBIT 4  
DATE Feb. 12, 1991  
HB 503

Marc Racicot  
Attorney General



2687 Airport Road  
Helena, MT 59620-1424

**TESTIMONY ON HOUSE BILL NO. 503 (HB 503)**

Submitted by Lois Menzies, Administrative Officer  
Gambling Control Division, Department of Justice

February 12, 1991

The following is a list of concerns regarding HB 308 as identified by the Gambling Control Division:

**Definition of "sports tab".** The term "sports tab" as used in section 1 is not adequately defined to isolate it as a particular gambling device. A sports tab is actually a tip board used in conjunction with a sports event. A tip board is a variation of a pull tab game. The definition of "sports tab" appears general enough to authorize other pull tab games.

**Rules of the game.** The rules in section 3 do not sufficiently describe how a sports tab game is to be conducted. There is no mention that the numbers on each tab are to be compared to the scores during a particular sports event to determine the winners.

The Division has found a similar problem with the rules governing sports pool and will be introducing legislation to clarify how a sports pool is to be conducted.

**Record of winners.** In conducting a sports pool, a person must sign his or her name in a square to indicate that the person placed a wager by purchasing a square. In contrast, in conducting a sports tab game, no record is kept as to which

Ex. 4

2-12-91

HB 503

persons purchased the winning tabs.

**Wagers and payouts.** There are no caps on the amount that may be wagered on a sports tab game or on the amount that may be paid to winners. All other forms of legalized gambling in Montana have either a bet or prize limit or both, except for Calcutta pools.

**Administration assessment.** Section 3 permits a sports tab operator to retain up to 10 percent of the total amount paid for all tabs sold. In contrast, the sports pool provisions require a 100 percent payout to players, unless the pool is conducted by a nonprofit organization for charitable, educational, or community service purposes. Permitting a sports tab operator to retain a portion of wagers, particularly when there are no caps on the amount that may be wagered, moves way from the concept of offering a game as a trade stimulant into the realm of commercial gambling.

**Effective date.** This bill is effective on passage and approval. The immediate effective date gives the Gambling Control Division inadequate time to adopt rules and train personnel on the regulation of sports pools.

The Committee should also be aware that there are two other bills addressing sports pools. As noted earlier, the Division bill clarifies the definition of a sports pool and expands on the rules of the game. A bill introduced by the Gaming Advisory Council broadens the definition of "sports pool" by eliminating reference to a card divided into squares or spaces with the names of the participants written within the squares or spaces.

The Attorney General also received a letter from the National Basketball Association urging this Committee to reject HB 503.

**NATIONAL BASKETBALL ASSOCIATION**

OLYMPIC TOWER • 845 FIFTH AVENUE • NEW YORK, N. Y. 10022 • 212-826-7000

GARY B. BETTMAN  
SENIOR VICE PRESIDENT &  
GENERAL COUNSEL

February 11, 1991

BY TELECOPIER

Attorney General Marc Racicot  
Justice Building  
215 North Sanders Street  
Helena, Montana 59620  
Att'n: Beth Baker, Executive Assistant

Dear Attorney General Racicot:

It has just come to my attention that the House Business and Economic Development Committee has scheduled a hearing for Tuesday, February 12, to hear testimony on H.B. 503, a bill which would allow sports tab games, increase the price for a sports pool chance, and raise the total amount that may be paid to winners of a sports pool.


On behalf of the National Basketball Association, I urge the Committee to reject this effort to expand sports betting in Montana. As you may be aware, the NBA is strongly opposed to any type of betting on its games. We believe that sports betting of any kind changes the nature of our fans' interest -- away from whether their team wins, to whether a certain score has occurred.

In addition, sports pool betting may well lead to other forms of gambling on the outcome of sporting events. If that happens, it could cause the erosion of public confidence in the integrity of our games and our players. Further, state-sanctioned sports betting sends to our youngest fans the mistaken message that sports and gambling are compatible.

Finally, we are concerned that this bill would increase the limit on individual chance tickets from \$5 to \$100 and that the individual pools could reach as high as \$10,000.

I hope that you will join us in opposing this effort to further expand sports betting.

Sincerely,

  
Gary B. Bettman

## Chapter 230-30 WAC PUNCHBOARDS AND PULL TABS

WAC	
230-30-015	Substitute flares.
230-30-016	Replacement of commission identification stamps on pull tab dispensing devices.
230-30-018	Transfer of any gambling devices requiring identification and inspection services stamps to be affixed—Requirement for documentation.
230-30-030	Punchboard and pull tab quality control—Special inspections and transfer invoices—Special fees to recover costs.
230-30-055	Punchboard and pull tab operation.
230-30-058	Standards for construction of punchboards.
230-30-060	Punchboard restrictions.
230-30-065	Punchboard/pull tab price per play to be posted.
230-30-070	Control of prizes.
230-30-072	Punchboard and pull tab inventory and retention requirements.
230-30-075	Minimum percentage of prizes for certain gambling activities.
230-30-080	Limitation on pull tab dispensing devices.
230-30-090	All devices must comply with rules.
230-30-095	Pull tab dispensing devices to be submitted to commission for approval prior to sale.
230-30-100	Punchboard and pull tab device to display name of its licensed manufacturer.
230-30-102	Pull tab series assembly and packaging.
230-30-103	Standards for construction of pull tabs.
230-30-104	Possession or sale of pull tab series in which winners or location of winners may be determined in advance—Prohibited.
230-30-105	Only one flare may be used with a punchboard or pull tab series.
230-30-106	Standards for flares, made by manufacturers; distributors; operators.
230-30-110	Possession of duplicate numbered—color coded pull tab series prohibited.
230-30-130	Flare to display pull tab series number.
230-30-200	Punchboard and pull tab business restrictions.
230-30-210	Buying from and selling to only licensees required.
230-30-212	Punchboards, pull tabs and related equipment may be sold with sale of business.
230-30-213	Sale of punchboards, pull tabs and pull tab dispensing devices when license revoked, expired or voluntarily surrendered.
230-30-215	Trade-in of used pull tab dispensing devices permitted provided certain records are maintained.
230-30-220	Interest in separate business involving punchboards and pull tabs at a different marketing level prohibited.
230-30-300	Recall of defective punchboards, pull tabs or pull tab dispensing devices.
230-30-500	Rules applicable to operators of punchboards and pull tabs applicable as well to operators of either activity.

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

230-30-010	Prior inspection or approval of punchboards, pull tabs, or devices for the distribution of pull tabs by the commission—Alternatives. [Order 5, § 230-30-010, filed 12/19/73, 1:25 p.m.] Repealed by Order 9, filed 12/19/73, 1:26 p.m.
230-30-020	Approval by sample. [Order 5, § 230-30-020, filed 12/19/73, 1:25 p.m.] Repealed by Order 9, filed 12/19/73, 1:26 p.m.

230-30-091 Unapproved mechanical or electrical coin-operated pull tab dispensing devices prohibited. [Order 42, § 230-30-091, filed 9/18/75, effective 6/1/76.] Repealed by Order 55, filed 6/25/76.

230-30-999 Test of continuous play/open ended pull tab series. [Statutory Authority: RCW 9.46.070 (8), (11) and (14), 85-03-024 (Order 142), § 230-30-999, filed 1/9/85.] Repealed by 87-15-052 (Order 169), filed 7/14/87. Statutory Authority: Chapter 9.46 RCW.

**WAC 230-30-015 Substitute flares.** A substitute flare may be utilized on punchboards or pull tabs. Substitute flares shall have the Washington state identification and inspection services stamp number assigned to the punchboard or pull tab series permanently recorded in ink on the face of the substitute flare. Such flare shall also show the series number assigned to that device by the manufacturer. If a substitute flare is used for a pull tab series, then the manufacturer's flare, with the manufacturer's series number and the identification and inspection services stamp obtained from the commission thereon, shall be attached to the back of the substitute flare in such a manner as to be clearly visible to a person playing the device.

The responsibility for recording the Washington state identification and inspection services stamp number on the substitute flare shall rest with the manufacturer, distributor, or operator who changes the original flare and attaches the substitute flare. [Statutory Authority: RCW 9.46.070 (8), (11) and (14), 88-13-060 (Order 179), § 230-30-015, filed 6/14/88. Statutory Authority: RCW 9.46.070 (5), (7), (8), (9), (11), (14) and (19), 84-13-038 (Order 140), § 230-30-015, filed 6/15/84. Statutory Authority: RCW 9.46.070 (6) and (11), 81-21-033 (Order 114), § 230-30-015, filed 10/15/81. Statutory Authority: RCW 9.46.070(5), 81-13-032 (Order 109), § 230-30-015, filed 6/15/81; 79-07-019 (Resolution No. 90), § 230-30-015, filed 6/14/79; Order 48, § 230-30-015, filed 3/23/76; Order 21, § 230-30-015, filed 8/20/74; Order 9, § 230-30-015, filed 12/19/73.]

**WAC 230-30-016 Replacement of commission identification stamps on pull tab dispensing devices.** (1) Notwithstanding any other provisions in these rules, a licensed operator or distributor of pull tab dispensing devices may obtain a commission identification stamp to replace an identification stamp affixed to a pull tab dispensing device that has become unidentifiable due to wear: *Provided*, That the operator or distributor furnish to the commission:

(a) The invoice from the operator, distributor or manufacturer for the purchase of the dispensing device in question, or

(b) A complete notarized description of the pull tab dispensing device, serial number, manufacturer, and the commission stamp number previously affixed to the device.

(2) The request for replacement of the commission identification stamp shall be submitted on a form provided by the commission. The fee for replacement of the commission identification stamps shall be as required by WAC 230-04-201. [Statutory Authority: RCW 9.46.070 (5), (7), (8), (9), (11), (14) and (19). 84-13-038 (Order 140), § 230-30-016, filed 6/15/84; Order 48, § 230-30-016, filed 3/23/76.]

**WAC 230-30-018 Transfer of any gambling devices requiring identification and inspection services stamps to be affixed--Requirement for documentation.** (1) Persons selling or otherwise furnishing punchboards, pull tabs, or pull tab dispensing devices shall account for every such device received and/or transferred. All transfers shall be made by completing a sales invoice or credit memo. Each invoice or credit memo shall set out the identification and inspection services stamp number affixed to each device transferred.

(2) Manufacturers shall maintain records that will allow accountability for all identification and inspection services stamps issued to them by the commission, for at least three years after they are affixed to devices and sold. This accountability shall be by indefinite retention of unused or damaged stamps or by records as set out in WAC 230-08-025: Provided that damaged stamps may be returned to the commission and will be replaced with serviceable stamps if they are accompanied by a detailed listing of the damaged stamp numbers and a ten cent per stamp service charge. [Statutory Authority: RCW 9.46.070 (8), (11) and (14). 88-13-060 (Order 179), § 230-30-018, filed 6/14/88. Statutory Authority: RCW 9.46.070 (5), (7), (8), (9), (11), (14) and (19). 84-13-038 (Order 140), § 230-30-018, filed 6/15/84; Order 23, § 230-30-018, filed 9/23/74.]

**WAC 230-30-030 Punchboard and pull tab quality control--Special inspections and transfer invoices--Special fees to recover costs.** (1) Special inspections - the commission shall have the authority to select any punchboard or pull tab series, whether held by an operator, distributor, or manufacturer and to examine the quality and/or integrity of the punchboard or pull tab series in any manner, including punching out or pulling all chances remaining thereon: *Provided*, That if the punchboard or pull tab series so inspected is thereby altered in any manner and no defect, alteration, deceptive condition, or other violation is discovered, then the owner shall be reimbursed by the commission for his cost for the punchboard or pull tab series, and the device shall become the property of the commission. *Provided further*, That for each such punchboard or pull tab series inspected which is found to be defective in any area related to a quality control deficiency, by the manufacturer, a fee not to exceed \$100.00 per each such punchboard or pull tab series inspected may be assessed by the commission against the manufacturer of the

punchboard or pull tab series to compensate the commission for the inspection.

(2) Transfer invoices - any manufacturer, distributor, or licensed representative of either, that fails to accurately complete any invoice for the sale or return of a punchboard, pull tab series, dispensing device, or related merchandise as required by WAC 230-30-018 may be assessed a fee of up to \$50.00 per invoice. The fee shall be used to defray extra costs incurred by the commission in tracking transfers or other monitoring procedures as a result of errors or omissions. [Statutory Authority: RCW 9.46.070(6), 89-21-069 (Order 198), § 230-30-030, filed 10/17/89, effective 11/17/89. Statutory Authority: RCW 9.46.070 (1), (4), (5), (6), (7), (11), (14) and (17) and 9.46.310. 85-01-065 (Order 145), § 230-30-030, filed 12/18/84. Statutory Authority: RCW 9.46.070 (5), (7), (8), (9), (11), (14) and (19). 84-13-038 (Order 140), § 230-30-030, filed 6/15/84; Order 5, § 230-30-030, filed 12/19/73.]

**WAC 230-30-050 Punchboard and pull tab operation.** (1) No person under the age of eighteen years and no person visibly intoxicated or visibly under the influence of any narcotic, shall be allowed to play or sell any punchboard or pull tab device. It shall be the responsibility of the licensee and the responsibility of the person physically operating the punchboard or pull tab device to determine that no unauthorized person is allowed to play or sell.

(2) No operator shall permit the display or operation of any punchboard or pull tab which may have in any manner been marked, defaced, tampered with or otherwise placed in a condition, or operated in a manner, which may deceive the public or which affects the chances of winning or losing upon the taking of any chance thereon.

(3) All records, reports and receipts relating to a punchboard or pull tab series in play must be retained on the licensed premises so long as the series or punchboard is in play and be made available on demand to law enforcement officers and representatives of the commission.

(4) When operators purchase merchandise to be used as prizes on punchboards or pull tab series from other than a licensed distributor, the following information must be on the invoice provided by the seller:

- (a) The date of purchase;
- (b) The company's name and adequate business address;
- (c) A full description of each item purchased;
- (d) The quantity of items purchased;
- (e) The cost per individual items purchased; and
- (f) The sales invoice or receipt must be maintained by the operator for at least three years. [Statutory Authority: RCW 9.46.070 (4), (8), (11) and (14). 86-07-037 (Order 155), § 230-30-050, filed 3/14/86. Statutory Authority: RCW 9.46.020 (1) and (23) and 9.46.070(1). 85-11-023 (Order 150), § 230-30-050, filed 5/13/85. Statutory Authority: RCW 9.46.070(8). 81-21-033 (Order 114), § 230-30-050, filed 10/15/81; Order 5, § 230-30-050, filed 12/19/73.]

**WAC 230-30-055 Standards for construction of punchboards.** All punchboards sold for use in the state of Washington must comply with the following standards:

(1) **PATTERNS:** The punchboard shall be manufactured with special care so as to eliminate any patterns between punchboards, or portions of punchboards, from which the location or approximate location of winning punches may be determined. Manufacturers shall employ at least the following steps to insure that no pattern exists.

(a) The form or permanent number sheets shall be mixed prior to cutting;

(b) After the strips (straws) have been crimped, all strips shall be thoroughly mixed prior to insertion in punchboards;

(c) When filling punchboards, workers shall alter the procedures for filling sets of punchboards; and

(d) No more than eight punchboards from any one set of boards shall be included in any case of punchboards for shipment to Washington.

(2) **SERIAL NUMBERS:** Effective July 1, 1988, serial numbers set forth on the form or permanent number sheets shall be nonsequential so as to ensure that no pattern is created which would permit the tracking of boards through the serial number.

(3) **GUARANTEED NUMBERS:** All numbers or symbols designated as winners on the flare must be guaranteed by the manufacturer as being present in the board. The manufacturer may at their option place a sticker or equivalent on the back of each punchboard setting forth additional numbers or symbols that are guaranteed to be in the board. The additional numbers or symbols on the back of the board shall not exceed 5% of the total punches in the board without the written permission of the commission.

(4) **SECURITY:** All punchboards must be sealed so it is impossible to determine the number or symbol of any punch prior to being punched out of the board by any method or device including but not limited to the use of markings or light.

(5) **STEP-UP BOARDS:**

(a) All cards, straws, or punches that contain the winners in the step-up portion of any punchboard shall be completely sealed so as to prevent premature winner identification and such items shall be thoroughly mixed so as to ensure that no pattern of winners exists.

(b) Step-up boards that contain winners covered by seals must have at least twenty-five different face sheets for use on that specific step-up board. Face sheets shall be utilized in such a manner so as to ensure random distribution during the manufacturing process. [Statutory Authority: RCW 9.46.070 (11) and (14), 87-24-016 (Order 173), § 230-30-055, filed 11/23/87.]

**WAC 230-30-060 Punchboard restrictions.** (1) No operator shall put out for play, and no manufacturer shall sell or furnish to any person, any punchboard or electronic punchboard:

(a) Which has not been submitted to the commission staff and been approved for sale by the commission staff in the state of Washington. An identical prototype of the

electronic punchboard must be submitted to the commission for review and approval. The commission shall retain the device actually submitted when approved.

(b) To which any key to any winning number, or symbol, exists other than a key which is furnished to the operator, which key designates the color codes for all chances on that board without regard to whether or not such chances are designated winners.

(c) Which has taped sides, corners, or edges.

(d) Wherein the winning punches or approximate location of any winning punches can be determined in advance of punching the punchboard in an [any] manner or by any device, including, but not limited to, any patterns in manufacture, assembly, packaging or programming. Winning punches shall be distributed and mixed among all other punches in the punchboard. The punchboard shall be manufactured or programmed with special care so as to eliminate any pattern as between punchboards, or portions of punchboards, from which the location or approximate location of the winning punches may be determined.

(2) When electronic punchboards are submitted for approval or modification, the commission shall assess an estimated fee to the person submitting the request, which fee is equal to the actual cost of review and analysis of the electronic punchboard submitted and which fee shall be paid prior to the electronic punchboard being approved for use and sale in the state of Washington. Excess fees collected shall be returned to the applicant at the completion of the review and analysis. [Statutory Authority: Chapter 9.46 RCW. 87-03-023 (Order 164), § 230-30-060, filed 1/13/87. Statutory Authority: RCW [9.46.070 (1), (2) and (11) and [9.46.110. 85-21-046 (Order 154), § 230-30-060, filed 10/14/85. Statutory Authority: RCW 9.46.070 (5), (7), (8), (9), (11), (14) and (19), 84-13-038 (Order 140), § 230-30-060, filed 6/15/84; Order 5, § 230-30-060, filed 12/19/73.]

**WAC 230-30-065 Punchboard/pull tab price per play to be posted.** (1) No punchboard or pull tab series shall be placed out for public play unless the cost to the player for each punch or pull tab is clearly posted on the flare.

(2) Once placed out for public play, a punchboard or pull tab series flare may not be modified or otherwise changed, except for the deletion of those prizes valued at five dollars or more as required by WAC 230-30-070. [Statutory Authority: RCW 9.46.070(11), 82-13-054 (Order 121), § 230-30-065, filed 6/14/82.]

**WAC 230-30-070 Control of prizes.** All prizes from the operation of punchboards and pull tabs shall be awarded in cash or in merchandise.

(1) Prizes shall be cash or merchandise only. Prizes may not involve the opportunity of taking an additional chance or chances on another punchboard or of obtaining another pull tab or pull tabs. Where the prize involves the opportunity to punch again on the same punchboard, a prize must be awarded for each such punch which is not less than the highest amount of



DATE 2/12/91  
 503

money, or worth not less than the most valuable merchandise prize, which might otherwise have been won by the punch for which the opportunity to take the second punch was awarded. Each such board must clearly indicate on its face the terms and conditions under which the opportunity to obtain the second, or step-up punch, may be obtained and the prizes which may be won by the step-up punch.

(2) Display of prizes:

(a) All prizes shall be displayed in the immediate vicinity of the punchboard or pull tab device and such prizes shall be in full view of any person prior to that person purchasing the opportunity to play.

(b) When the prize is cash it shall be displayed as follows:

(i) If the punchboard or pull tab series contains the opportunity to win both cash and merchandise prizes, the money itself shall not be displayed, but a coupon designating the cash available to be won shall be substituted; and

(ii) If the only prizes which may be won are cash prizes, they shall be clearly and fully described or represented by a coupon displayed upon the prize flare attached to the face or displayed in the immediate vicinity of the pull tab dispensing device.

(c) The licensee shall display prizes so arranged that a customer can easily determine which prizes are available from any particular punchboard or pull tab series or device operated or located upon the premises.

(d) Upon determination of a winner of a merchandise prize, the licensee shall immediately remove that prize from any display and present it to the winner.

(e) Upon determination of a winner of any cash prize of five dollars or more, or of any merchandise prize with a retail value of five dollars or more, but prior to award of the prize, the licensee shall conspicuously delete all references to that prize being available to players from any flare, punchboard or pull tab dispensing device upon which such reference may appear, and from any other list, sign, or notice which may be posted, in such a manner that all future customers will know the prize is no longer available. The prize shall then be paid or delivered to the winner forthwith.

(3) Payment of prizes.

The licensee must pay or award to the customer or player playing the punchboard or pull tab series all such prizes that have not been deleted from the flare of the punchboard or pull tab series when the punchboard or pull tab series is completely played out.

(4) Cash in lieu of merchandise prizes.

No licensee shall offer to pay cash in lieu of merchandise prizes which may be won.

(5) Record of winners:

(a) When any person wins a cash prize of over twenty dollars or wins a merchandise prize with a retail value of more than twenty dollars from the play of any punchboard or pull tab series, the licensee or licensee's representative shall make a record of the win. The record of the win shall be made in a standard format prescribed by the commission and shall disclose at minimum the following information:

(i) The Washington state identification stamp number of the punchboard or pull tab series from which the prize was won;

(ii) The series number of the pull tab series or punchboard from which the prize was won;

(iii) The name of the punchboard or pull tab series;

(iv) The date the pull tab series or punchboard was placed out for play;

(v) The date the pull tab series or punchboard was removed from play;

(vi) The month, day and year of the win;

(vii) If the prize is cash, the amount of the prize won;

(viii) If the prize is merchandise, a description of the prize won and its retail value;

(ix) The printed full name of the winner;

(x) The current address of the winner which will include the street address, the city and the state.

(b) It shall be the responsibility of the licensee to determine the identity of the winner and the licensee shall require such proof of identification as is necessary to properly establish the winner's identity. The licensee shall require the winner to sign his name in ink on the winning pull tab being presented for payment. The licensee shall not pay out any prize unless and until the winner has fully and accurately furnished to the licensee all information required by this rule to be maintained in the licensee record of the win.

(c) From October 1, 1989, until December 31, 1990, the commission shall conduct a test of an alternative method of maintaining a record of winners. This test shall not include more than 100 licensees, all of which receive written permission from the director. Charitable or nonprofit licensees participating in this test shall be prohibited from intermingling of funds allowed by WAC 230-08-010(6) and must deposit funds separately and intact as set out in WAC 230-12-020. All participants shall adhere to alternative requirements for retention of winning tabs or punches required by subsection (6) of this rule and WAC 230-30-072. In addition, effective April 1, 1990, all participants shall use only pull tabs that utilize a secondary verification code to prohibit counterfeiting on tabs that award prizes greater than \$20.00. Such codes shall be approved by the director prior to use within this state. Banded pull tabs and punchboards are exempt from the secondary verification code requirements. During the period of the test when a person wins a cash prize of over twenty dollars or a merchandise prize with a retail value of more than twenty dollars, the following alternative winners record procedures shall apply:

(i) The winners shall be required to print their name and date of birth, in ink, upon the side of the winning punch or tab opposite the winning symbol(s);

(ii) The licensee or their representative shall then verify the winner's identity and record the date and initial the winning punch or tab.

(6) Retention of records. Every licensee shall keep the record of all prizes awarded in excess of twenty dollars, containing all of the information required in subsection (5) above, and all winning pull tabs or punchboard punches for a period of at least four months following

the last day of the month in which it was removed from play and shall display the same to any representative of the commission or law enforcement officials upon demand.

(7) Defacing winning punches or tabs. The licensee shall, within twenty-four hours after a winning pull tab or punch of five dollars or more has been presented for payment, mark or perforate the winning symbols in such a manner that the pull tab or punch cannot be presented again for payment.

(8) Value of merchandise prizes. For purposes of this rule, the retail value of a merchandise prize shall be the amount actually paid therefor by the licensed operator plus 50 percent of that actual cost.

(9) Spindle, banded, or "jar" type pull tabs played in a manner which awards merchandise prizes only. Pull tab series which award only merchandise prizes valued at no more than five dollars, are hereby permitted to employ schemes whereby certain predesignated pull tabs are free or the player is otherwise reimbursed the actual cost of said pull tabs. Flares for spindle-type pull tabs operated in this manner shall designate the total number of pull tabs in the series and the total number of pull tabs designated as free or reimbursable. Free or reimbursable pull tabs in these types of pull tab series shall not constitute a prize or prizes nor shall monies collected and later reimbursed constitute revenue for the purposes of determining gross receipts. [Statutory Authority: RCW 9.46.070 (11) and (14), 89-17-056 (Order 196), § 230-30-070, filed 8/15/89, effective 9/15/89. Statutory Authority: RCW 9.46[.070] (8), (14), 87-17-052 (Order 171), § 230-30-070, filed 8/18/87. Statutory Authority: Chapter 9.46 RCW, 87-03-023 (Order 164), § 230-30-070, filed 1/13/87. Statutory Authority: RCW [9.46.]070 (1), (2) and (11) and [9.46.]110, 85-21-046 (Order 154), § 230-30-070, filed 10/14/85. Statutory Authority: RCW 9.46.070 (8), (11) and (14), 85-03-024 (Order 142), § 230-30-070, filed 1/9/85. Statutory Authority: RCW 9.46.070 (8) and (11), 82-01-065 and 82-03-033 (Order 115 and 116), § 230-30-070, filed 12/18/81 and 1/18/82; 81-21-033 (Order 114), § 230-30-070, filed 10/15/81. Statutory Authority: RCW 9.46.070(10), 79-09-029 (Order 91), § 230-30-070, filed 8/14/79; Order 43, § 230-30-070, filed 11/28/75; Order 29, § 230-30-070, filed 1/23/75; Order 27, § 230-30-070, filed 11/15/74; Order 23, § 230-30-070, filed 9/23/74; Order 14, § 230-30-070, filed 3/27/74; Order 12, § 230-30-070, filed 2/14/74; Order 5, § 230-30-070, filed 12/19/73.]

**WAC 230-30-072 Punchboard and pull tab inventory and retention requirements.** Each punchboard and pull tab series purchased or otherwise obtained by an operator shall be controlled and accounted for in the following manner:

(1) Each operator shall closely monitor punchboard and pull tab series purchased to assure that all identification and inspection service stamp numbers are correctly entered in all records and each device purchased is recorded. The following control procedures apply:

(a) After the close of business on September 30, 1988, and before operating punchboards and pull tabs after that date, each operator shall take a physical inventory of all punchboards and pull tabs in-play and awaiting play and record the following information separately for punchboards and pull tabs:

(i) Name of game; and

(ii) I.D. stamp number;

(b) At the time punchboards and pull tabs are delivered, each operator will assure that all purchase invoice data is correct by comparing the actual I.D. stamp numbers on each punchboard/pull tab series to the numbers entered on the purchase invoices;

(c) All purchases of punchboards or pull tabs shall be recorded on a standard distributor's invoice, which includes space for the operator to either attach a records entry label or enter the identification and inspection stamp number and the date the device was placed out for play. For all punchboards or pull tab series purchased, the operator shall enter the date and the identification and inspection service stamp number in the space on the invoice, adjacent to the distributors entry, by attaching a records entry label, or by written entry if record entry labels are not attached to the punchboard or pull tab series;

(d) If a device is returned to a distributor for any reason, including commission required recall, the operator shall record the date, invoice or credit memo number, and "returned" on the original purchase invoice: *Provided*, That licensees may use a commission approved inventory log to comply with subsections (c) and (d) of this section;

(2) Each punchboard or pull tab series which is removed from operation, together with the prize flare, all unplayed tabs, and all winning punches or tabs, shall be retained by the operator for at least four months following the last day of the month in which it was removed from play. The board, unplayed tabs, flare, and all winning punches or tabs shall remain available for inspection, on the licensed premises, by commission agents and/or local law enforcement and taxing agencies: *Provided*, That devices may be stored off premise if they are produced for inspection upon demand;

(3) Each punchboard or pull tab series which is not placed out for public play or returned to the distributor or manufacturer from whom it was originally purchased, must be retained on the licensed premises and made available for inspection by commission agents and/or local law enforcement and taxing agencies: *Provided*, That devices may be stored off premise if they are produced for inspection upon demand;

(4) Each punchboard or pull tab series which is deemed by the operator to be defective or unplayable, for any reason, shall not be returned to the distributor or manufacturer without approval from the commission. If it is found to be defective after it has been placed out for play, all other rules apply and it must be recorded as required by WAC 230-08-010: *Provided*, That the retention time required by subsection (2) above may be shortened by the commission upon inspection and written release by a commission agent. [Statutory Authority:

RCW 9.46.070(6), 89-21-069 (Order 198), § 230-30-072, filed 10/17/89, effective 11/17/89. Statutory Authority: RCW 9.46.070 (8), (11) and (14), 88-13-060 (Order 179), § 230-30-072, filed 6/14/88.]

**WAC 230-30-075 Minimum percentage of prizes for certain gambling activities.** No operator shall put out for play and no distributor or manufacturer of punchboards and pull tabs shall sell or otherwise provide to any person in this state or for use in this state any punchboard or pull tab series that does not contain the following minimum percentage in prizes:

(1) Punchboards - a minimum of 60 percent respecting each punchboard placed out for public play.

(2) Pull tabs - a minimum of 60 percent respecting each series of pull tabs placed out for public play.

(3) For the purposes of determining the percentage of prizes offered on any punchboard, or in any pull tab series under this section, total merchandise prizes shall be computed at the amount actually paid therefor by the licensed operator plus 50 percent of that actual cost.

(4) Single cash prizes on punchboards/pull tabs shall not exceed:

(a) Two hundred in cash; or

(b) A merchandise prize, or combination merchandise prize, for which the operator has not expended more than three hundred dollars.

(5) Multiple winners on an individual pull tab or punch shall not exceed the single cash or merchandise prize limit in (4) above. [Statutory Authority: RCW [9.46.]070 (1), (2), and (11) and [9.46.]110, 85-21-046 (Order 154), § 230-30-075, filed 10/14/85. Statutory Authority: RCW 9.46.070(11), 82-06-007 (Order 119), § 230-30-075, filed 2/19/82. Statutory Authority: RCW 9.46.070(10), 79-09-029 (Order 91), § 230-30-075, filed 8/14/79; Order 70, § 230-30-075, filed 5/24/77; Order 43, § 230-30-075, filed 11/28/75.]

**WAC 230-30-080 Limitation on pull tab dispensing devices.** (1) No pull tabs shall be placed out for public play unless the total number of pull tabs originally in the series shall be clearly disclosed on the face of the flare advertising the prizes available from that series of pull tabs. The total number of pull tabs originally in the series will be placed upon the flare by the manufacturer prior to the series being sold to a distributor or operator.

(2) No pull tab shall be added to a series of pull tabs after that series has been shipped from its place of manufacture.

(3) No pull tab series, or any portion thereof, shall be placed in, or if a spindle upon, any pull tab dispensing device until any other series of pull tabs previously in, or upon, the device has been played out or permanently removed from public play.

(4) No pull tab once placed in, or if a spindle upon, a pull tab dispensing device out for public play shall be removed from the dispensing device until the series is permanently removed from public play, except only:

(a) Those pull tabs actually played by consumers.

(b) Those pull tabs removed by representatives of the commission, or other law enforcement agency inspecting the device, and

(c) Those tabs temporarily removed during necessary repair or maintenance of the device.

Excepting only tabs removed under (b) and (c) hereinabove, once a pull tab has been removed from public play it shall not again be put out for public play.

(5) No person shall put out any pull tab series for public play unless the series of pull tabs is wholly contained within, or if a spindle upon, the device used for dispensing that series.

(6) No person shall sell or transfer to another person in this state, or for use within this state, or shall place out for public play any device for the dispensing of pull tabs not so constructed as to allow a consumer to clearly see each pull tab within, or if a spindle upon, the device prior to playing the device. However, a metal plate, not to exceed 3/4 inch in height, may be affixed across the front at the bottom of the dispensing columns of a mechanical pull tab dispensing device.

(7) No person shall sell or transfer to any other person in this state, or for use within this state, or put out for public play any device for the dispensing of pull tabs without permanent lines or markings on the face of the device and clearly visible to the consumer which effectively divide the tabs remaining in the device into divisions of approximately 25 tabs so that the consumer can determine how many tabs remain within the device.

(8) No person shall put out for public play any device for the dispensing of pull tabs which is not so constructed as to provide for at least one selection position for every 400 pull tabs originally in the series in play in the machine.

The following schedule shall be followed in the enforcement of this subsection:

MINIMUM NUMBER OF TABS FROM WHICH SELECTION MUST BE AVAILABLE	THE NUMBER OF TABS ORIGINALLY IN SERIES OF PLAY
---	---

1	1 - 400
2	401 - 800
3	801 - 1200
4	1201 - 1600
5	1601 - 2000
6	2001 - 2400
7	2401 - 2800
8	2801 - 3200
9	3201 - 3600
10	3601 - 4000

(9) No person shall sell or transfer to another person in this state, or for use within this state, or put out for public play, any pull tab series which contains more than 4000 individual pull tabs. [Statutory Authority: RCW 9.46.030 (2) and (3) and 9.46.070 (11) and (14), 83-19-024 (Order 136), § 230-30-080, filed 9/13/83. Statutory Authority: RCW 9.46.070(14), 81-19-073 (Order 112), § 230-30-080, filed 9/15/81. Statutory Authority: RCW 9.46.070(10), 79-07-019 (Order 90),

§ 230-30-080, filed 6/14/79; Order 55, § 230-30-080, filed 6/25/76; Order 43, § 230-30-080, filed 11/28/75; Order 15, § 230-30-080, filed 4/17/74; Order 9, § 230-30-080, filed 12/19/73, 1:26 p.m.; Order 5, § 230-30-080, filed 12/19/73, 1:25 p.m.]

**WAC 230-30-090 All devices must comply with rules.** No operator shall display or put out for play, and no distributor or manufacturer or their representatives shall sell or otherwise furnish, any punchboard, series of pull tabs, or device for the dispensing of pull tabs unless such punchboards, pull tabs or devices for the dispensing of pull tabs conform to all requirements of this state's laws and the rules of this commission, as they now exist or are hereafter amended. [Order 18, § 230-30-090, filed 5/21/74.]

**WAC 230-30-095 Pull tab dispensing devices to be submitted to commission for approval prior to sale.** No pull tab dispensing device shall be put out for public play, or sold or otherwise furnished to any person in this state, or for use within this state, after August 1, 1976 unless and until an identical prototype of that device has first been presented to the commission by its manufacturer and has been approved by the commission for use within this state.

Prototypes, or examples, of such devices shall be presented at the commission's office for staff review, together with an application for commission approval on a form obtained from the commission, not less than 60 calendar days prior to the date by which a commission decision is desired.

The commission shall retain the device actually submitted for approval, or a later production model thereof, at the discretion of the director or the commission. Approval, if granted, shall extend only to the specific device approved and devices exactly like it. If the device is modified in any way, excepting only in color and other like superficial appearance features, it must be resubmitted for commission approval of such modifications and shall be treated in all respects under this rule as if it were a new and different device.

The traditional single spindle device, and the clear glass or plastic traditional fishbowl device, for the dispensing of pull tabs are hereby approved and these devices need not be submitted to the commission for further approval notwithstanding the above provisions of this rule. [Order 55, § 230-30-095, filed 6/25/76; Order 45, § 230-30-095, filed 12/30/75.]

**WAC 230-30-100 Punchboard and pull tab device to display name of its licensed manufacturer.** (1) No operator shall put out for play, and no distributor or manufacturer shall sell or otherwise furnish, any punchboard, series of pull tabs or device for the dispensing of pull tabs unless each such board, series, or device shall have conspicuously set forth thereon a stamp, seal or label which identifies its manufacturer and the city and state of its manufacturer.

(2) Any coin-operated pull tab dispensing device manufactured or sold in this state, or for use in this

state, and initially placed out for play on or after August 1, 1976, shall have the manufacturer's name, the city and state of its manufacturer, and the manufacturer's serial number for that device stamped or embossed into its case. The manufacturer shall keep a permanent record describing each such device sold, identifying the purchaser and setting out that serial number.

The manufacturer's serial number shall be set out on the sales invoice each time the device is sold or transferred.

(3) Each individual pull tab shall have conspicuously set forth thereon the name of the manufacturer or label or trademark which identifies its manufacturer. The label or trademark must be filed with the commission prior to the printing of the pull tab.

(4) No operator shall put out for play and no distributor shall sell or otherwise furnish, any punchboard, series of pull tabs or coin operated device for the dispensing of pull tabs, unless the manufacturer of punchboards, series of pull tabs or coin operated device for the dispensing of pull tabs, identified on such device, has been licensed by the commission. [Statutory Authority: RCW 9A.070(13), 79-07-019 (Order 90), § 230-30-100, filed 6/14/79; Order 55, § 230-30-100, filed 6/25/76; Order 43, § 230-30-100, filed 11/28/75; Order 27, § 230-30-100, filed 11/15/74; Order 23, § 230-30-100, filed 9/23/74; Order 18, § 230-30-100, filed 5/21/74; Order 12, § 230-30-100, filed 2/14/74.]

**WAC 230-30-102 Pull tab series assembly and packaging.** (1) Manufacturers of pull tabs shall manufacture, assemble, and package each pull tab series in such a manner that none of the winning pull tabs, nor the location or approximate location of any of the winning pull tabs can be determined, in advance of opening the pull tabs in any manner or by any device, including but not limited to any pattern in manufacture, assembly, packaging, markings, or by the use of a light.

(2) Winning pull tabs shall be evenly distributed and mixed among all other pull tabs in the series. The series shall be assembled and packaged with special care so as to eliminate any pattern as between series, or portions of series, from which the location or approximate location of any of the winning tabs may be determined.

(3) When the series is packaged in more than one package, box or other container, the entire series of individual pull tabs shall be mixed in such a manner that no person can determine the position or approximate location of any of the winning pull tabs or determine whether any one package or portion of a series contains a larger or smaller percentage of winning pull tabs than the balance of the series. The packages, boxes or other containers shall not be numbered as to distinguish one from the other. Each series of pull tabs shall contain a packing slip placed inside the package containing the name of manufacturer, series number, date the series was packaged, and the name or identification of the person who packaged the series: *Provided*, That this information may be printed on the back of the flare or the outside of at least one of the packages, boxes or containers in which the pull tabs are packed. [Statutory

Authority: RCW 9.46.070 (8), (11) and (14), 85-03-024 (Order 142), § 230-30-102, filed 1/9/85; Order 78, § 230-30-102, filed 11/17/77; Order 43, § 230-30-102, filed 11/28/75.]

**WAC 230-30-103 Standards for construction of pull tabs.** (1) Pull tabs shall be constructed so that it is impossible to determine the covered or concealed number, symbol, set of symbols, or game protection on the pull tab until it has been dispensed to and opened by the player, by any method or device, including but not limited to, the use of a marking, variance in size, variance in paper fiber, or light.

(2) All pull tabs, except banded and latex covered pull tabs, will be constructed using a two or three ply paper stock construction.

(3) The manufacturer shall conspicuously print on the face or cover sheet the series number and the name of the manufacturer or label or trademark identifying the manufacturer. On banded pull tabs, the series number and the name of the manufacturer or label or trademark identifying the manufacturer shall be printed so both are readily visible prior to opening the pull tab.

(4) The cover sheet shall be color coded when individual series numbers are repeated and may show the consumer how to open the pull tab to determine the symbols or numbers. The cover sheet will contain perforated and/or clean-cut openings centered over the symbols or numbers on the back of the face sheet in such a manner as to allow easy opening by the consumer after purchase of the pull tabs, while at the same time, not permitting pull tabs to be opened prematurely in normal handling. Perforation should exist on both horizontal lines of the opening with either perforated or clean-cut on the vertical or elliptical line where the tab must be grasped for opening after bending the edge of ticket down. On latex covered pull tabs, either the face or back of the pull tab shall be color coded when individual series numbers are repeated and may show the consumer how to remove the latex to determine the symbols or numbers. On banded pull tabs, the paper stock shall be color coded when individual series numbers are repeated.

(5) Pull tabs will be glued or sealed so that it is impossible to determine the covered or concealed numbers, symbol or set of symbols on the pull tab until it has been dispensed to and opened by the player.

(6) Thickness.

(a) Venable pull tabs. Defined as pull tabs that are sold out of mechanical pull tab dispensing devices approved for such use in this state by the Washington state gambling commission.

(i) Single opening and double sided tabs. The overall bulk thickness of the pull tab shall be .045 inches plus or minus .003 inches.

(ii) Multiple opening tabs. The overall bulk thickness of the pull tab shall be .026 inches plus or minus .002 inches.

(b) Nonvendable pull tabs. Defined as pull tabs that cannot be sold out of mechanical pull tab dispensing devices approved for use in this state by the Washington state gambling commission. Nonvendable pull tabs may

be dispensed from fishbowls, receptacles, parking boxes or spindles. Manufacturers may use any thickness, provided they comply with all other rules of the commission.

(c) All pull tabs within a single pull tab series shall be of the same thickness.

(7) Length and width.

(a) Vendable pull tabs

(i) Single opening and double sided tabs shall be 1 7/8 inches x 1 inch plus or minus 1/8 inch.

(ii) Multiple opening tabs shall be 3 1/2 inches by 1 7/8 inches plus or minus 1 inch.

(b) Nonvendable pull tabs - manufacturers may construct nonvendable pull tabs in any size provided the pull tab complies with all other rules of the commission.

(c) All pull tabs within a single pull tab series shall be uniform in length or width and may vary by more than 3/64 inch, provided that in no case shall winning pull tabs be identifiable by visible variation in dimension.

(8) All pull tabs will be constructed to insure that, when offered for sale to the public, the pull tab is virtually opaque and free of security defects wherein winning pull tabs cannot be determined prior to being opened through the use of high intensity lights or any other method.

(9) Each manufacturer shall establish his own game protection for each pull tab game or series of games. The game protection shall be a method of identifying winning pull tabs, after they have been purchased and opened, from nonwinning, altered or forged pull tabs. The manufacturer may use special numbers, colors, designs, ink or any combination to establish the game protection. Manufacturers will submit to the gambling commission a letter explaining the game protection and will keep the commission informed on any changes. Spindle-type pull tab series when played in the manner set out in WAC 230-30-070(8) are exempt from this requirement. [Statutory Authority: Chapter 9.46 RCW, 87-15-052 (Order 169), § 230-30-103, filed 7/14/87. Statutory Authority: RCW 9.46.070 (1), (2), and (11) and 9.46.110, 85-21-046 (Order 154), § 230-30-103, filed 10/14/85. Statutory Authority: RCW 9.46.070 (5), (7), (8), (9), (11), (14) and (19), 84-13-038 (Order 140), § 230-30-103, filed 6/15/84; Order 78, § 230-30-103, filed 11/17/77; Order 43, § 230-30-103, filed 11/28/75.]

**WAC 230-30-104 Possession or sale of pull tab series in which winners or location of winners may be determined in advance--Prohibited.** (1) No operator, distributor or manufacturer, or representative thereof, with knowledge or in circumstances whereunder he reasonably should have known, shall possess, display, put out for play, sell or otherwise furnish to any person any pull tab series or pull tab from any series:

(a) In which the winning tabs have not been evenly distributed and mixed among all other tabs in the series; or

(b) In which the location, or approximate location, of any of the winning tabs can be determined in advance of

opening the tabs in any manner or by any device, including but not limited to, any pattern in the manufacture, assembly or packaging of the tabs by the manufacturer, by any markings on the tabs or container, or by the use of a light, or

(c) Which does not conform in any other respect to the requirements of these rules as to manufacture, assembly, or packaging of pull tabs.

(2) No manufacturer or distributor or representative thereof shall use as a sales promotion any statement, demonstration, or implication that any certain portion of a series of pull tabs contains more winners than other portions of the series or that any series of pull tabs may be sold by the operator in a particular manner that would give the operator any advantage in selling more of the pull tabs before having to pay out winners. [Statutory Authority: RCW 9.46.070 (8), (11) and (14), 85-03-024 (Order 142), § 230-30-104, filed 1/9/85; Order 78, § 230-30-104, filed 11/17/77.]

**WAC 230-30-105 Only one flare may be used with a punchboard or pull tab series.** No person shall place or have out in public view more than one flare advertising the prizes available from the operation of any punchboard, or from any series of pull tabs. [Order 43, § 230-30-105, filed 11/28/75.]

**WAC 230-30-106 Standards for flares, made by manufacturers; distributors; operators.** (1) Except as set forth in paragraph (2) below, the flare advertising prizes available from the operation of any punchboard, or any series of pull tabs shall be made by the manufacturer only, winning numbers or symbols shall not be altered by any operator or distributor, and shall:

(a) Be placed only upon the upper face, or on the top, of any such punchboard or any device used to dispense the pull tabs; and

(b) Clearly set out each of the prizes available and the number or symbol which wins prizes; and

(c) Set out the winning numbers or symbols for prizes of five dollars or more in cash, or merchandise worth five dollars or more at retail, in such a manner that each may be easily and clearly deleted or marked off as each prize is won and awarded. For the purposes of this subsection the retail value of a merchandise prize shall be the amount actually paid therefore by the licensed operator plus 50 percent of that actual cost.

(2) Substitute flares

(a) Distributors may make and apply substitute flares to punchboards and pull tab series provided that the conditions set forth in (c) below are satisfied:

(b) Licensed operators may make and use substitute flares on punchboards and pull tab series which offer merchandise or combination merchandise-cash prizes provided that the conditions set forth in (c) below are satisfied:

(c) Use of substitute flares:

(i) The substitute flare must comply with the requirements of (1)(a), (b) and (c) of this section;

(ii) Substitute flares must meet the requirements of WAC 230-30-015;

(iii) The winning numbers or symbols on the substitute flare are selected from the winning numbers or symbols on the flare made by the manufacturer, or from the optional numbers placed on the back of the board by the manufacturer; and

(iv) The substitute flare is stapled to the manufacturer's flare and the manufacturer's flare is defaced so that it is unusable, but the identification and inspection services stamp is readable and visible.

(3) Spindle-type pull tab series when played in the manner set out in WAC 230-30-070(8) are exempt from this section. [Statutory Authority: RCW 9.46.070 (8), (11) and (14), 89-11-048 (Order 192), § 230-30-106, filed 5/16/89. Statutory Authority: RCW 9.46.070 (11) and (14), 87-24-016 (Order 173), § 230-30-106, filed 11/23/87. Statutory Authority: RCW 9.46.070(10), 79-09-029 (Order 91), § 230-30-106, filed 8/14/79; Order 43, § 230-30-106, filed 11/28/75.]

**WAC 230-30-110 Possession of duplicate numbered-color coded pull tab series prohibited.** (A) Each manufacturer of pull tabs shall assign a series number to each series of pull tabs he manufactures and place that series number on each pull tab in that series. A manufacturer may, in addition, assign a color trim to that series and if so, each pull tab in the series shall also reflect that color trim.

No manufacturer, manufacturer's representative, distributor or distributor's representative shall sell or furnish to any operator a series of pull tabs with the same series number and color code combination as a series which that operator has previously purchased or obtained but upon which play has not been completed.

(B) No person licensed as an operator of punchboards or pull tabs shall ever obtain or possess, or shall ever allow upon the licensed premises, a series of pull tabs, or portion thereof, with the same series number, or series number or color code combination, as any other series of pull tabs or portion thereof in his possession, or on the licensed premises: *Provided*, That this rule shall not prevent a person from retaining upon the licensed premises pull tabs remaining from series removed from play for the purposes of complying with federal or state law or regulation if that person

(1) Has punched a hole through each such pull tab removed and retained with a standard hole punch not less than 1/8" in diameter immediately upon removal of the pull tabs from play, and

(2) Made a written record of the series number, color code if any, and the number of tabs remaining in that series, immediately upon removing that series from play, and

(3) The written record so made is maintained upon the licensed premises for a period of not less than three years after the series is removed. [Order 27, § 230-30-110, filed 11/15/74.]

**WAC 230-30-130 Flare to display pull tab series number.** Each flare describing the prizes and winning numbers or symbols for a series of pull tabs in play shall

clearly set out the series number assigned to that pull tab series by the manufacturer. The series number will be placed upon the flare by the manufacturer prior to the series being sold to a distributor or operator. [Order 48, § 230-30-130, filed 3/23/76; Order 23, § 230-30-130, filed 9/23/74.]

**WAC 230-30-200 Punchboard and pull tab business restrictions.** (1) No operator shall buy, receive or otherwise obtain, nor shall any manufacturer or distributor, or anyone connected therewith, sell or deliver any punchboard, pull tab, pull tab dispensing device or related equipment, or merchandise for prizes to be awarded in connection with such activities, to any operator, except a cash [the] basis nor shall any operator permit any manufacturer or distributor or anyone connected therewith, to acquire any interest, including a security interest, in any such equipment or merchandise. A cash basis shall consist of payment in full, either by cash or by check, with payment made to the seller by the operator upon, or prior to, actual physical delivery of the merchandise to the operator: *Provided*, That when a check is used for payment to constitute a cash basis payment it shall be presented for payment into the banking system by the end of the tenth calendar day following the day the check is written. If an operator can demonstrate by a preponderance of evidence that it has properly made a payment by check, as required by this section, then it will not be held liable for a violation of this rule if the violation is caused solely by the failure of the manufacturer or distributor to deposit the check into the banking system in a timely fashion.

(2) No operator shall accept a loan of money or any thing of value from any manufacturer or distributor, or from anyone connected therewith. [Statutory Authority: RCW 9.46.070(13), 81-13-033 (Order 110), § 230-30-200, filed 6/15/81; Order 18, § 230-30-200, filed 5/21/74; Order 5, § 230-30-200, filed 12/19/73.]

**Reviser's note:** Permanent Order 30, filed by the Washington state gambling commission in the office of the code reviser on January 23, 1975, set an effective date of April 1, 1975, on the following section included in this chapter:

WAC 230-30-200 as a repealed section.

Emergency Order 34, filed April 1, 1975, deferred the effective date of Permanent Order 30, from April 1, 1975, to June 27, 1975.

Permanent Order 36, filed May 9, 1975, voided Orders 30 and 34 before the designated effective date of June 27, 1975, thereby returning the section to its former status as filed May 21, 1974. See later promulgation of this section by Order 110, filed June 15, 1981.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 230-30-210 Buying from and selling to only licensees required.** No manufacturer, distributor or distributor's representative, shall sell or otherwise make available to any person any punchboards, pull tabs, pull tab dispensing devices or related equipment in this state unless it has first determined that such person has a valid license issued by the commission to sell or otherwise distribute such equipment within this state, or to

operate such activity on a particular premise within this state.

No operator, distributor or distributor's representative, shall purchase or otherwise obtain from any person any punchboard, pull tab, device for the dispensing of pull tabs or related equipment in this state until it has first determined that the person selling or otherwise offering such equipment has a valid license issued by the commission to sell the equipment in this state or has been registered with the commission as required. [Order 5, § 230-30-210, filed 12/19/73.]

**WAC 230-30-212 Punchboards, pull tabs and related equipment may be sold with sale of business.** Notwithstanding any other provision in these rules, a licensed operator who is selling the retail business in connection with which he is operating punchboards, pull tabs and pull tab dispensing devices may transfer such of those items as he has on hand to the buyer as a part of the transaction, provided:

(1) The buyer has been licensed by the commission to operate punchboards and pull tabs or has applied to the commission for such a license.

(2) Each such item sold together with the business is reported to the commission in writing by the seller. This report shall include a complete description of each item sold together with the number of the commission's stamp assigned to each item, and the number assigned by the manufacturer to each board, series of pull tabs or device. [Order 23, § 230-30-212, filed 9/23/74.]

**WAC 230-30-213 Sale of punchboards, pull tabs and pull tab dispensing devices when license revoked, expired or voluntarily surrendered.** (1) Notwithstanding any other provisions in these rules, a licensed operator or distributor of punchboards and pull tabs whose license has been revoked, expired or voluntarily surrendered may sell complete pull tab series, pull tab dispensing devices and unused punchboards in inventory to a licensed distributor or a licensed manufacturer of those devices: *Provided*, That the seller notifies the commission within ten days of the transaction in writing of the following:

(a) The date the license is revoked, expired or surrendered.

(b) A complete description of the items to be sold including commission identification stamp number.

(c) The name and license number of the distributor or manufacturer who will buy the equipment.

(2) Licensed distributors and manufacturers of punchboards and pull tabs may buy complete pull tab series, pull tab dispensing devices and unused punchboards from a licensed operator whose license has been revoked, expired or surrendered: *Provided*, That:

(a) The transaction is for cash only.

(b) The licensed operator has furnished the written notification to the commission of the transaction required above.

(3) The distributor or manufacturer will prepare an invoice for the transaction with a complete description of all equipment purchased together with the commission stamp number on each item. A copy of the notice given

to the commission by the operator will be attached to the invoice. The records of these transactions shall be retained by each party for not less than three years following the transaction, unless released by the commission from this requirement as to any particular record. [Order 33, § 230-30-213, filed 2/21/75.]

**WAC 230-30-215 Trade-in of used pull tab dispensing devices permitted provided certain records are maintained.** "Trade-in" of pull tab dispensing devices by an operator is prohibited, except when all of the following conditions are satisfied:

(1) The trade-in is accomplished in connection with, and as a part of, an occasional transaction wherein a licensed operator is purchasing other pull tab dispensing devices from a licensed distributor or manufacturer.

(2) The portion of the purchase price of the devices purchased by the operator to be deducted as a credit for the devices traded in is the fair market price of such trade-in items, taking into account their age, condition and functional obsolescence. The trade-in credit shall be for value received and shall not be used by the distributor or manufacturer to grant a discount in the price of the devices sold to the operator when such discount is not available to all other customers of the distributor or manufacturer.

(3) A record shall be kept of each transaction by all parties to it which includes:

(a) A complete description of each device sold to the operator, its sales price and the identifying number of the device set out on the stamp affixed thereto by the commission.

(b) A complete description of each device traded in to the distributor or manufacturer, the amount of money deducted from the sales price of the items purchased by the operator as a result of the device being traded in, and the identifying number of the device set out on the stamp affixed thereto issued by the commission. These records shall be in addition to those elsewhere required. The records of these transactions shall be retained by each party for not less than three years following the transaction. [Order 15, § 230-30-215, filed 4/17/74.]

**WAC 230-30-220 Interest in separate business involving punchboards and pull tabs at a different marketing level prohibited.** No manufacturer, distributor or operator of punchboards, pull tabs, pull tab dispensing devices or related equipment shall:

(1) Have any interest, directly or indirectly, in any other of these businesses operating in whole or in part at a different marketing level;

(2) Allow any of its officers, or any other person with a substantial interest in such business, to have any interest in any other of these businesses operating in whole or in part at a different marketing level;

(3) Shall employ any person in any capacity or allow any person to represent the business in any way if such person is also employed by, or represents any other of these businesses operating in whole or in part at a different marketing level;

(4) Shall allow any other of these businesses operating in whole or in part at a different marketing level, or any person with a substantial interest therein to have any interest directly or indirectly, in it;

(5) Have any interest, directly or indirectly, in any business of any kind in which any other of these businesses operating in whole or in part at a different marketing level, or any person having a substantial interest therein, also has a substantial interest;

(6) Allow any other business of any kind in which any other of these businesses, or any person having a substantial interest therein, to have any interest, directly or indirectly, in it;

(7) For the purposes of this rule, the different marketing levels shall be:

(a) Operator;

(b) Distributor;

(c) Manufacturer;

(8) This rule shall not prohibit the same person licensed and operating as a manufacturer from being also licensed and operating as a distributor. [Order 18, § 230-30-220, filed 5/21/74; Order 5, § 230-30-220, filed 12/19/73.]

**WAC 230-30-300 Recall of defective punchboards, pull tabs or pull tab dispensing devices.** (1) Upon a determination that punchboards, pull tabs or pull tab dispensing devices for sale in Washington do not meet commission standards, the director may order all defective products and all similarly constructed or printed products be recalled by the manufacturer(s).

(2) If the director orders such a recall, the manufacturer of the product shall be immediately notified regarding the items to be recalled, reason for the recall, effective date of the recall, and any other specific requirements. The verbal notification shall be followed with a written notification. Immediately upon the oral notification, manufacturers shall cease sale in the state and initiate actions to ensure complete compliance with the recall. Manufacturers will notify all distributors within 72 hours of the items recalled, effective date of recall, and arrange for the prompt return of the defective items. Distributors, when notified in writing by either manufacturer or commission of the recall, shall immediately stop sales and/or delivery of the product.

(3) The commission shall notify, in writing, each licensed distributor of gambling paraphernalia of the recall, effective dates thereof, the products involved, and of any special instructions if applicable. Within 72 hours, the distributor shall notify the Commission of the name and addresses of operators who have purchased the recalled item(s) during the last 30 days.

(4) When the distributors have provided the names of the operators, the commission shall then notify, in writing, each affected licensed operator as to the items recalled, effective date and special instructions, if applicable. Operators shall not utilize any defective punchboards, pull tabs or pull tab dispensing devices after receiving written notification from the commission.



(5) Prior to any reintroduction in the state of any recalled or similar item, the manufacturer must first submit the revised or reworked item to the commission for review, evaluation and approval. The manufacturer will be notified in writing of the approval or disapproval and a copy of the approving letter will be sent by the manufacturer to the distributor with the next five shipments of the reworked item. [Statutory Authority: RCW 9A66.070 (8), (11) and (14). 88-07-059 (Order 175), § 230-30-300, filed 3/15/88.]

**WAC 230-30-500 Rules applicable to operators of punchboards and pull tabs applicable as well to operators of either activity.** Each rule of the commission which applies to operators of both punchboards and pull tabs shall apply as well to operators of either one of these activities. [Order 25, § 230-30-500, filed 10/23/74.]

# Charitable Gaming Division

In compliance with Chapter 9, section 9-1,101 R.S. Supp., 1989, the Department of Revenue submits herewith its first charitable gaming annual report to the Governor, Legislature, Auditor of Public Accounts, and Attorney General. This report addresses tax revenue received, expenses incurred, and other activities relating to the administration and enforcement of the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, and the Nebraska Pickle Card Lottery Act. This report covers the 1989-1990 Fiscal Year.

  
John M. Boehm  
State Tax Commissioner

  
Roger W. Hirsch  
Deputy Tax Commissioner

COMMENTS OF PROPONENTS OF HOUSE BILL 378

H.B. 378 is proposed and supported by the Tobacco Industry in Montana in realization of the fact that Montana is one of only four states of the 51 states and the District of Columbia that does not have any restriction on the sale of tobacco products to minors. The Tobacco Industry has conducted and is conducting an active national campaign to support restrictions on the sale of tobacco products to those under 18 years of age, and this legislation is offered in Montana to further that effort.

Restrictive laws are in effect in other states as follows:

- Three states set a minimum of age of 19 years.
- Thirty-six states set a minimum age of 18 years.
- Four states set a minimum age of 17 years.
- Three states set a minimum age of 16 years.
- One state allows local option.

H.B. 378 not only covers the sale of cigarettes but also the sale and "sampling" of all tobacco products. The legislation would prohibit the sale of tobacco products or distribution of samples of tobacco products to those under 18 years of age.

H.B. 378 prohibits the distribution of samples of tobacco products within 500 feet of a center of youth activity.

H.B. 378 prohibits the purchase of tobacco products by those under 18 years of age. It also prohibits the distribution of a sample of a tobacco product to a person under 18 years of age.

H.B. 378 limits places where tobacco products may be sold through vending machines to:

- (a) factories, businesses, offices, and other places not open to the general public;
- (b) places to which persons under 18 years of age are not permitted access;
- (c) places where alcoholic beverages are offered for sale; and
- (d) places where the vending machine is under the supervision of the owner or an employee of the establishment.

H.B. 378 provides penalties for the knowing or purposeful retail sale or distribution of a tobacco product in violation of the act or failure to request proof of age as required by the act as follows:

- \$100 for the first conviction;
- \$500 for a conviction preceded by a conviction within the past 365 days; and
- \$1,000 for a conviction preceded by two convictions within the past 730 days.

EX. 8

2-12-91

HB 378

If a sale in violation of the act is made through a vending machine, the owner of the establishment in which the vending machine is located is guilty of criminal offense punishable by a fine not to exceed \$100, except that if the owner has made an employee responsible for supervising the vending machine, the employee is guilty of the offense and is punishable by the same fine unless the owner ordered or knowingly allowed the sale.

H.B. 378 requires that notice of the 18-year-old sale prohibition must be displayed in the establishment where tobacco products are sold, as well as on each vending machine located in the establishment. The fine for violation of this part of the act is \$200.

H.B. 378 provides for uniformity of the law throughout the state by providing for state preemption.

We would appreciate your support of H.B. 378

Jerome Anderson  
Representing The Tobacco Institute

Mark C. Staples  
Representing The Montana Association  
of Tobacco and Candy Distributors

John Delano  
Representing Phillip Morris Ltd.

Roger W. Tippy  
Representing R.J. Reynolds

Gene Phillips  
Representing The Smokeless Tobacco Council



EXHIBIT 9  
DATE Feb. 12, 1991  
HB 378

## **PROGRAM SUMMARY:**

### **A Tobacco Product Retailing Program for Retail/Vending Industries**

#### **Objectives**

- To continue to discourage those who are underage from purchasing tobacco products.
- To reaffirm that the tobacco industry does not want young people to use tobacco products -- and continues to take affirmative steps to reinforce this position.

#### **Background**

In the face of growing concerns about smoking by those who are underage, the tobacco industry is calling upon the retailers and vending machine operators who sell tobacco products to visibly demonstrate adherence to both state laws and our own conviction that the use of tobacco products is an adult decision.

The issue of smoking by those who are underage is attracting increased attention around the country. In some localities, "sting" operations designed to trap retailers selling tobacco products to those who are underage have been staged. Violators are being prosecuted. The penalties, which vary among localities, may include stiff fines and jail terms. Those who have a retail tobacco license may face the loss of that license.

This program is designed to assist the retailing and vending machine industries, and to enlist their support and cooperation in discouraging the sale of tobacco products to those who are underage.

#### **Participants**

The primary audiences for this tobacco retailing program include:

- Convenience stores
- Grocery stores
- Drug stores
- Discount stores
- Small independent businesses (e.g., "mom and pop stores")
- Gas stations
- Vending machine industry
- Other retail outlets (e.g., truck stops, etc.)

#### **Messages**

This program is designed to convey several messages, including:

- Smoking is an adult custom based on informed choice.

(over please)

- It is against the law in most states to sell tobacco products to those who are underage. Due to growing anti-tobacco activities and the focus on sales to youth, the law can and should be enforced. Retailers are therefore urged to participate in the program.
- Publicly participating in a program such as this can enhance and improve the retailer's image in the community, and help ensure that store owners and employees comply with the law.
- Non-compliance by retailers and the vending machine industry with current laws could lead to tighter restrictions on tobacco sales, including outright bans.

### **Theme**

The theme of the campaign, which will be incorporated into all program materials, is as follows:

**IT'S THE LAW;  
WE DO NOT SELL TOBACCO PRODUCTS  
TO PERSONS UNDER 18**

**(OR 19, IF THE STATE LAW DESIGNATES 19 AS THE MINIMUM AGE)**

### **Program Materials**

We have designed a package of print and display materials for use by the tobacco product retailer. Materials include:

- A state specific brochure describing the program and applicable laws. The brochure, in addition to detailing minimum age laws for a state and penalties for violation, provides tips to the retailer and the employee on verification of age, acceptable forms of identification, and how to deal with a customer who becomes upset when asked for identification.
- A tip sheet on how to verify age, for display at the cash register as a reminder when employees prepare to ring up a sale.
- Store front and window display signs and point-of-purchase materials, all bearing the program theme: "It's the law: We do not sell tobacco products to persons under 18." These colorful blue, orange and white signs and decals will assist store owners in reminding employees and customers of the state law and their compliance with it.
- Lapel buttons, also using the blue-orange-white colors and the program theme, for store employees to wear while on duty.
- Employee Acknowledgement Form.

Materials are available only in states whose minimum age for purchase of cigarettes is 18 or 19.

### **Distribution**

Distribution will be through the membership of the co-sponsoring organizations. The Tobacco Institute will provide promotional kits in numbers requested by the sponsoring organization. All program materials will be provided at no cost to the co-sponsoring organization and its members.



EXHIBIT 9  
DATE Feb. 12, 1991  
HD 378

## Employee Acknowledgement

I have read the "It's the Law" brochure and understand the requirements mandated by state law with respect to the prohibition of the sale of cigarettes and other tobacco products to anyone under the age of 18.

---

(Employee)

---

(Date)

## A Campaign for You

The Tobacco Institute has developed a program to inform the retail community about minimum age laws for the purchase of tobacco products, to help you uphold the law in your establishment, and to help raise awareness of your commitment among your customers. The following guidelines and accompanying materials should help you reinforce the simple message that your store does not sell tobacco products to anyone underage. We encourage you to use them.

### Verifying a Customer's Age

**When in doubt, check I.D.** Your store should have a firm policy on procedures for checking customer I.D. When someone asks to buy tobacco products, if there is any doubt about whether he or she is at least 18, ask for proof of age. Simply assuming that the person is of legal age could get you into trouble. Breaking the law could cost you a hefty fine, a jail term, or the loss of your license.

All identification must include a picture and date of birth. Under Washington state law, acceptable forms of I.D. are as follows:

- Driver's license, instruction permit, or identification card of any state or Canadian province, or "identicaid" issued by the Washington State Department of Licensing
- U.S. passport
- U.S. active duty military identification
- Merchant Marine identification card issued by the U.S. Coast Guard
- Liquor control authority card of identification of any state, or Canadian province

*Notes from parents or guardians are not acceptable as a means of exempting anyone under 18 from the law. Unless you are certain that the customer is of legal age, do not sell that person tobacco products.*

Cosponsoring Organizations

Ex. 9  
2/12/91  
HB 378

# IT'S THE LAW

## WE DO NOT SELL TOBACCO PRODUCTS TO PERSONS UNDER 18

The Tobacco Institute  
P.O. Box 41169  
Washington, DC 20018





EXHIBIT 9  
DATE Feb. 12, 1991  
HB 378

# IT'S THE LAW

WE DO NOT SELL  
TOBACCO PRODUCTS  
TO PERSONS UNDER 18

IT'S THE  
LAW

WE DO NOT SELL TOBACCO  
PRODUCTS TO PERSONS UNDER 18

IT'S THE  
LAW

WE DO NOT SELL  
TOBACCO PRODUCTS  
TO PERSONS UNDER 18



# AMERICAN LUNG ASSOCIATION OF MONTANA

Christmas Seal Bldg. — 825 Helena Ave.  
Helena, MT 59601 — Ph. 442-6556

EARL W. THOMAS  
EXECUTIVE DIRECTOR

EXHIBIT 10  
DATE Feb 12, 1991  
HB 378

TO: Members of the House of Representatives  
Business & Economic Development Committee

FROM: Earl Thomas, Executive Director  
American Lung Association of Montana

DATE: February 12, 1991

SUBJECT: HB 378

We support House Bill 378.

"AN ACT PROHIBITING THE SALE OF TOBACCO PRODUCTS TO AND THE PURCHASE OF TOBACCO PRODUCTS BY PERSONS UNDER 18 YEARS OF AGE: PREEMPTING LOCAL GOVERNMENT REGULATIONS AND PROVIDING PENALTIES".

We believe the bill would be better with the following amendments.

Page 3, line 3--omit everything after the word recipient. Replace with "If there is a reasonable doubt as to the person's age, the seller must require presentation of a driver's license or other generally accepted identification that includes a picture of the person.

Page 4--delete lines 5 through 10. We question the reasoning as to why the bill should specify what the defense of the prosecution should be, plus why section (e) would state that a person may be prosecuted for only one violation in a single day. If they're guilty of one or more crimes, then they are guilty.

Page 4--delete section 4 lines 22-23-24.

We feel it very important that local government keep their options open to set their own regulations if they have a need to do so in order to satisfy specific situations.

We urge you to vote yes on House Bill 378 with the foregoing amendments.

TABLE 1. Summary of current state laws restricting minors' access to tobacco products

State*	Minimum age (yrs) for sale or possession	Prohibits sale of tobacco products to minors	Prohibits free distribution of tobacco to minors	Requires signs posted at point of sale	Penalties†	Requires retail cigarette or tobacco license	Enforcement provisions	Prohibits cigarette vending machines accessible to minors
Alabama	19	Yes	Yes	No	a	Yes	No	No
Alaska	19 <sup>§</sup>	Yes	Yes	No	a	Yes	No	Yes
Arizona	18 <sup>§</sup>	Yes	Yes	No	b	No	No	No
Arkansas	18	Yes	Yes	No	a	Yes	No	No
California	18 <sup>§</sup>	Yes	Yes	Yes	a	No	No	No
Colorado	18	Yes	Yes	No	b	No	No	No
Connecticut	18	Yes	Yes	No	b	Yes	No	No
Delaware	17	Yes	Yes	No	a	Yes	No	No
District of Columbia	16	Yes	Yes	No	a	Yes	No	No
Florida	18	Yes	Yes	Yes	a	No	Yes <sup>†</sup>	No
Georgia	17	Yes	Yes	No	b	Yes	No	No
Hawaii	18	Yes	Yes	No	b	No	No	No
Iaho	18 <sup>§</sup>	Yes	Yes	No	a	No	No	Yes
Illinois	18 <sup>§</sup>	Yes	Yes	Yes	a	Yes	No	No
Indiana	18 <sup>§</sup>	Yes	Yes	Yes	b	No	No	Yes
Iowa	18	Yes	Yes	No	a	Yes	No	No
Kansas	18 <sup>§**</sup>	Yes**	Yes	No	a	Yes	No	No
Kentucky	No	No	No	No	No	No	No	No
Louisiana	No	No	Yes	No	No	No	No	No
Maine	18 <sup>§</sup>	Yes	Yes	Yes	b	No	No	Yes
Maryland	18	Yes	Yes	No	a	Yes	No	No
Massachusetts	18	Yes	Yes	Yes	b	Yes**	No	No
Michigan	18 <sup>§</sup>	Yes	Yes	Yes	a	No	No	No
Minnesota	18 <sup>§</sup>	Yes	Yes <sup>§§</sup>	No	a	No <sup>††</sup>	No	Yes
Mississippi	18	Yes**	Yes	No	a	No	No	No
Missouri	No	No	No	No	No	No	No	No
Montana	No	No	No	No	No	Yes	No	No
Nebraska	18 <sup>§</sup>	Yes	Yes	No	a	No <sup>††</sup>	Yes <sup>†</sup>	No
Nevada	18	Yes	Yes	No	b	No	No	No
New Hampshire	18 <sup>§</sup>	Yes	Yes	Yes	b	Yes <sup>††</sup>	No	No
New Jersey	18	Yes	Yes	Yes	b	Yes <sup>††</sup>	Yes	No
New Mexico	No	No	No	No	No	No	No	No
New York	18	Yes	No	Yes	a	Yes	No	No
North Carolina	17	Yes	Yes	No	a	Yes	No	No
North Dakota	18 <sup>§</sup>	Yes	Yes	No	a	Yes	No	No
Ohio	18	Yes	Yes	Yes	a	Yes	No	No
Oklahoma	18	Yes**	Yes	No	a	Yes	Yes <sup>†***</sup>	No
Oregon	18	Yes	Yes	No	a	No	No	No
Pennsylvania	18	Yes	Yes	No	a	Yes	No	No
Rhode Island	18	Yes	Yes	Yes	b	Yes <sup>††</sup>	No	No
South Carolina	18	Yes	Yes	No	a	No	Yes***	No
South Dakota	18 <sup>§</sup>	Yes	Yes	Yes	b	No <sup>†††</sup>	No	No
Tennessee	18	Yes	Yes	Yes	a	No	Yes <sup>§§§</sup>	No
Texas	18	Yes	Yes	Yes	b	No	No	No
Utah	19 <sup>§</sup>	Yes	Yes	No	a	Yes	No	Yes
Vermont	17	Yes	Yes	Yes	b	No	No	No
Virginia	16 <sup>§</sup>	Yes	No	No	b	No	No	No
Washington	18	Yes	Yes	No	a	Yes	No	No
West Virginia	18 <sup>§</sup>	Yes	Yes	No	b	No	Yes <sup>†</sup>	No
Wisconsin	18	Yes	No	Yes	b	No <sup>††</sup>	No	No
Wyoming	No	No	No	No	No	No	No	No
Total states with laws	45	45	43	17	45	24	7	6

\*For purposes of this report, the District of Columbia is counted as a state.

†a = Both jail and fine; b = fine only.

§Prohibits possession of tobacco by minors.

§§Provisions to encourage minors to divulge source of tobacco.

††Applies only to cigarettes.

APPROXIMATE NUMBER OF DEATHS:

Smoking	390,000 <sup>1</sup>
Alcohol	125,000 <sup>2</sup>
(including drunk driving)	
Car Accidents	47,000 <sup>3</sup>
(including drunk driving)	
Fires	4,000 <sup>3</sup>
AIDS	23,000 <sup>4</sup>
Heroin/Morphine	2,400 <sup>5</sup>
Suicide	31,000 <sup>5</sup>
Homicide	21,000 <sup>5</sup>
Cocaine/Crack	3,300 <sup>5</sup>

<sup>1</sup> 1989 Surgeon General's Report, 1985 data

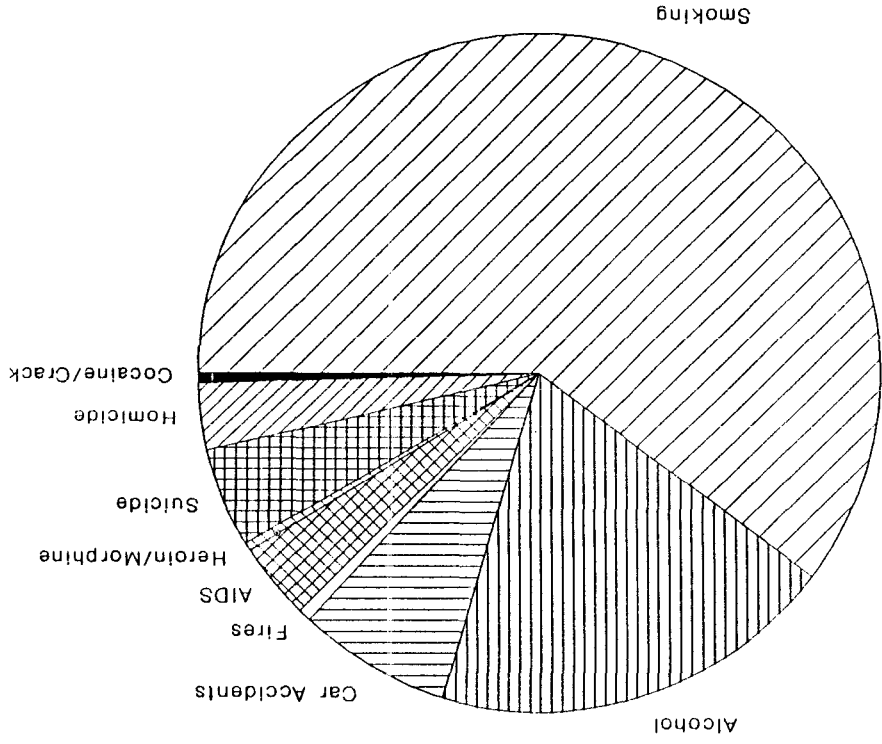
<sup>2</sup> Surgeon General's Office, 1985 data

<sup>3</sup> National Safety Council, 1989 data

<sup>4</sup> Centers for Disease Control, 1989 data

<sup>5</sup> National Center for Health Statistics, 1987 data

Smoking Kills More Americans Annually  
Than All of These COMBINED



BOZEMAN SCHOOL DISTRICT "TOBACCO-FREE SCHOOLS" REFERENDUM  
December 10-13, 1990

Student vote, grades 7-12

YES (for tobacco-free schools)	1,374	78.6%
NO	374	21.4%
TOTAL	1,748	
Percent voting of students enrolled	90.1%	

Faculty and staff vote (junior-senior high schools)\*

YES	113	77.4%
NO	33	22.6%
TOTAL	146	

Combined student-staff vote

YES	1,487	78.5%
NO	407	21.5%
TOTAL	1,894	

\*(elementary faculty vote not tabulated)

TO: HOUSE BUSINESS AND ECONOMIC  
DEVELOPMENT COMMITTEE  
FROM: MIKE MALES  
RE: TESTIMONY OPPOSING HB 378

8 Feb. 1991

EXHIBIT 12

DATE Feb. 12, 1991

HB 378

HB 378 proposes to ban the sale of tobacco products to minors, which on its face would appear to reduce smoking by youth. However, the only information on such laws is that they have failed to deter smoking by teen-agers in the 44 states in which they have been on the books, some for decades.

As the enclosed figures show, Montana teen-agers are much less likely to smoke than are teens nationally, even though tobacco sales to minors are legal here. Fewer Montana teens try cigarettes, and of those who do, more voluntarily give up smoking than teen-agers nationally. Our youth make good decisions on their own without being forced and policed.

It is with some amusement that I notice the tobacco industry is sponsoring HB 378. In six sessions in which I have lobbied the Legislature on one topic or another, I have never seen an industry ask for legislation to reduce its sales, particularly to customers it must depend on in the future. Having worked for issues vehemently opposed by tobacco interests, such as the recently defeated cigarette tax initiative, I know how effective the industry is when it believes its interests are threatened. It is clear the industry knows HB 378 will not reduce tobacco use by minors -- and, if figures from other states are any indication, may actually increase it. The industry simply hopes to reap some good publicity from an apparent public-interest stance.

The youth, police, and retailers of this state should not be subject to useless, forcible laws -- which in other states have included arrests, searches, fines, and "sting" operations -- for public relations purposes. I propose a more positive alternative. Rep. Dorothy Bradley is drafting a measure to hold a statewide tobacco referendum among students in grades 7-12, supervised by the Office of Public Instruction, in October 1991. OPI has indicated its willingness to hold the election, and experience from a similar (and successful -- results attached) December 1990 tobacco referendum in which 90% of Bozeman's junior and senior high students voted shows it can be held at minimal expense and effort.

The question Rep. Bradley's bill would put to students is: should retailers refuse to sell tobacco to minors? If approved, and I believe it would be, retailers with tobacco licenses would be issued signs stating they are in voluntary compliance with Montana teen-agers' own vote against selling tobacco products to minors. In this fashion, maximum educational value and use of "peer pressure" to deter student smoking would be realized, the decision would be made in the most effective manner by minors themselves, and retailers would be given the chance to cooperate with a voluntary approach prior to being saddled with a mandatory system. I believe a voluntary approach has more chance of success in any case given the anti-smoking sentiment among Montana youth and the willingness of retailers now not to sell tobacco to minors. I urge your vote to table HB 378 and in favor of Rep. Bradley's voluntary alternative measure.

Montana is one of only six states in which persons under the age of 18 may buy, possess, and smoke cigarettes on the same basis as adults. It has been suggested that legal cigarette use leads to more smoking by teenagers. Efforts have been proposed to ban minors in Montana from legal cigarette purchase as are nearly all minors nationally.

To test the theory that legality leads to more smoking, rates of smoking by Montana youth are compared to those of Montana adults and to the rates of youth who try cigarettes but do not continue to smoke, and these comparisons are contrasted with national rates. If legality leads to more smoking, we would expect to see higher absolute and net rates of cigarette initiation and continued smoking among Montana youths than is the case among youth nationally.

<u>MONTANA/NATIONAL SMOKING COMPARISONS*</u>	<u>Montana</u>	<u>U.S.</u>
Percent of high school seniors who smoke	11.0%	18.1%
Percent of adults who smoke	19.4%	28.2%
Ratio, youth:adult smoking rates	0.57	0.64
Percent of high school seniors who ever tried cigarettes (initiation)	61.0%	66.4%
Of those who ever tried cigarettes: percent who continue to smoke today	18.0%	27.3%

The results are as follows:

(1) Montana youth are 40% less likely to smoke than youths nationally and are 43% less likely to smoke than Montana adults.

(2) Smoking rates among Montana youths are 12% lower than those predicted by adults smoking rates compared to youths nationally.

(3) Montana youths are 8% less likely to try cigarettes than youths nationally. Those Montana youths who do try cigarettes are 34% less likely to continue smoking than youths nationally. More than four out of five Montana youths (82%) who try cigarettes give them up, compared to fewer than three out of four youths (73%) nationally.

These results indicate that a ban on cigarette purchases and smoking by minors does not lead to less smoking by minors and may have the opposite effect. It also indicates that Montana youths make better decisions on their own to avoid trying cigarettes and to avoid smoking than youths make if adults attempt to force them to abstain from smoking.

Mike Males  
Bozeman, Montana

\**Montana Adolescent Health Status*, Montana Office of Public Instruction, March, 1990; *Drug Use, Drinking, and Smoking*, National Survey Results, U.S. Department of Health and Human Services, 1989.

STATE OF MONTANA  
**DEPARTMENT OF JUSTICE**  
GAMBLING CONTROL DIVISION

Marc Racicot  
Attorney General



2687 Airport Road  
Helena, MT 59620-1424

**TESTIMONY ON HOUSE BILL NO. 308 (HB 308)**

Submitted by Lois Menzies, Administrative Officer  
Gambling Control Division, Department of Justice

February 12, 1991

The following is a list of concerns regarding HB 308 as identified by the Gambling Control Division:

**Regulation.** HB 308 creates a structure for regulating punchboards and pulltab games that is apart from the regulatory structure for all other gambling activities regulated by the Gambling Control Division. For example, the qualifications for licensure in section 5 differ from the licensing qualifications in 23-5-116, MCA. Likewise, the civil penalties that may be imposed for a violation of the Punchboard and Pulltab Games Control Act differ from the administrative remedies available to the Division under 23-5-136, MCA, for other types of gambling violations. The criminal penalties in section 10 also differ from the penalties imposed in 23-5-161, MCA, for violations of other gambling laws and rules. Regulation would be less complicated and confusing if the provisions regarding punchboards and pulltab games matched those for other gambling activities.

**Permit fees.** Section 6 statutorily appropriates punchboard and pulltab permit and license fees to the Department of Justice. This procedure is inconsistent with how other gambling permit fees are handled; other permit fees are appropriated by the

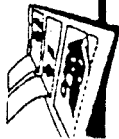


Ex. 13  
2/12/91  
HB 308

Legislature for use by the Division.

Control of games. Subsection (2) of section 7 grants the Department of Justice "peace officer status with the powers of search, seizure, and arrest to regulate and control persons who offer or make available punchboard and pulltab games." (Emphasis added) This section makes no reference to the regulation or control of players.

A serious problem encountered by the North Dakota Attorney General's office concerning pulltabs involved insider information. The North Dakota regulators found that it was a widespread practice for pulltab operators to leak to certain players information about how much money remained to be made or lost if all remaining tickets for a particular game were purchased. It is unclear whether the Department may regulate the actions of a player who takes advantage of insider information.



## Cheating the charities: MINNESOTA'S GAMBLING PROBLEM

# For some Minnesotans, playing pulltabs is just plain poison

Joe Rigeri and Robert Franklin  
Writers

For 1 million Minnesotans who pulltabs, most are Minnesota residents. As they tell it, they aren't gamblers, big losers or big winners.

Well Klein, a manager for a business in Little Falls, spends more on the average, but doesn't lose. At a St. Cloud bar one night, he lost about \$500 a night, but he's coming out a little ahead.

There is another side to the game. A St. Cloud resident, Shirley Schlegel, lost \$20,000 in less than a year and is losing her marriage and her life. She quit, and tells her story in hopes of persuading other compulsive gamblers to do likewise.

For the hard-core gamblers, it's a game. Some buy from only one box to improve odds of winning. Spend a little at a time, watch other players and buy after the others have bought a lot but won nothing. Known as far hawks, they watch both how much money has been put into a game and how much is left in prizes.

Some players also hold back their winning tickets, enticing others to buy until the odds for winning are good again. Many buy all the tickets remaining in a box when most pulltabs have been sold and big winners remain.

Hard as they try, however, most of them lose in the long run — on average, 17 cents on the dollar.

Allie Tuomi, a carpenter, said he works hard for his money and, when he loses at pulltabs, often wonders, "Why am I playing?" But he answered: "Once I reach a certain point, I'm down so much, I might as well keep on going." He spent \$180 on pulltabs and won \$80 during 90 minutes of playing at Ron's Squaw Point bar on Gull Lake. He is Stry Schlegel's brother.

### As odds shift, sellers know the score



As tickets are sold from a pulltab game and winners are cashed in, a seller can know the odds of getting a big winner—or the point at which all remaining tickets can be bought for less than the value of the winners among them.

Here's an example of how this form of cheating could work in the case of an actual pulltab game that contains 2,399 tickets that sell for \$1 each, with four \$250 winners and four \$100 winners among them.

Tickets remaining	Value of big winners remaining	Costs per ticket for big winner	Profit/loss from buying all tickets
2,399	\$1,400	300 to 1	-\$999
2,100	1,400	263 to 1	-700
1,800	1,400	225 to 1	-400
1,500	1,300	214 to 1	-200
1,200	1,050	200 to 1	-150
900	950	180 to 1	+50
600	700	150 to 1	+100

\* Figures do not reflect \$5.20 in small winning tickets, nor the practice of some sellers to reserve a favorable game for regular customers, who can then buy tickets in small lots until they've collected all big winners.

Star Tribune graphics: Ray Grumney

gambles several times a month, spending nearly \$600 a year.

The pull findings do not support the idea that low-income people gamble more than others. About one-fourth of adults with a household income of \$20,000 or less play pulltabs — the lowest of all income groups. For others, the percentage of gambling rises as incomes rise.

Pulltab gamblers are as diverse as Minnesota. Lutherans gamble. So do

Roman Catholics and, in smaller numbers, people of no religious preference. Most are white-collar than blue-collar, most have some college education.

Most Minnesotans think gambling is fun, but also think it is potentially harmful that gamblers bet more than they can afford to lose.

In visiting bars and clubs around the state, two Star Tribune reporters found dozens of people who share these feelings. They love gambling, hate it — or both.

A Crown Rapids construction worker said he liked pulltab gambling even though, for him, it was a disease worse than drinking. His rationale for playing: "You've got to have fun once in a while."

At George's in Fridley one night, he bought \$300 in pulltabs and lost almost all of it, a far cry from the might he won \$1,000. That was a while ago. Now he says he doesn't play anymore, is trying to get his life together, and asked that his name not be used.

Tom Dannelly, a contractor who played at Leon's Supper Club in Columbia Heights, is one of the rare self-proclaimed net winners. He expressed concern about the players who, while drinking, get a sense of false gratification and false security: "Then in the morning they look at the checkbook."

Schlegel looked at her checkbook a lot. To cover losses, she wrote \$15,000 worth of checks, borrowed from friends and took out a \$5,000 loan while she worked as a waitress

Her husband ran his own business and worked two jobs for an electric cooperative.

In quest of the instant high of winning, she spent everything she made and extra money earned by her husband. More than money, she lost time with her three children. When her youngest was 1 year old, she says, "I can't remember her at all."

Schlegel quit after adding up a year's losses and realizing that her family "was 100 times more important."

Other gamblers also tell their sad stories. There was the woman who lost more than \$100,000 and had to refinance her car, and the Minneapolis professional man who was deep in debt, wondering why he was so irrational.

The state has no recent studies on the number of addicted gamblers. In the mid-1980s, according to a report by the Department of Human Services, there were 15,000 to 20,000 compulsive gamblers, and another 200,000 who had "at least periodic problems" with gambling. However, the figures were based on surveys taken before pulltab gambling became widespread.

Some gambling practices feed the addiction. Distributors design games that promote gambling. Pulltab sellers push volume, because they count on tips to supplement pay that hovers near minimum wages. Many bars and pulltab sellers accept checks, and gambling organizations end up holding worthless paper.

Scott Lewandowski, 31, wrote \$2,389 in bad checks, mostly at bars with

pulltabs games in the St. Cloud area. Because he had a prior record he was sent to prison for 15 months. Gambling organizations have reported huge losses from bad checks.

Nearly two-thirds of pulltab players gamble in bars, according to the poll. They don't go there for that purpose but buy because the pulltabs happen to be there.

For the hard-core gamblers, it's a game. Some buy from only one box to improve odds of winning. Spend a little at a time, watch other players and buy after the others have bought a lot but won nothing. Known as far hawks, they watch both how much money has been put into a game and how much is left in prizes.

Some players also hold back their winning tickets, enticing others to buy until the odds for winning are good again. Many buy all the tickets remaining in a box when most pulltabs have been sold and big winners remain.

Hard as they try, however, most of them lose in the long run — on average, 17 cents on the dollar.

Allie Tuomi, a carpenter, said he works hard for his money and, when he loses at pulltabs, often wonders, "Why am I playing?" But he answered: "Once I reach a certain point, I'm down so much, I might as well keep on going." He spent \$180 on pulltabs and won \$80 during 90 minutes of playing at Ron's Squaw Point bar on Gull Lake. He is Stry Schlegel's brother.

Testimony of Joe Roberts

# ATTORNEY GENERAL

STATE OF NORTH DAKOTA  
State Capitol  
Bismarck, North Dakota 58505

701-224-2210

EXHIBIT 15  
DATE Feb. 12, 1991  
HB 308

Nicholas J. Spaeth  
ATTORNEY GENERAL

## MEMORANDUM

Capitol Offices  
Consumer Fraud  
and Antitrust Division  
701-224-3404  
800-472-2600  
Toll Free in ND

TO: Senate Political Subdivisions Committee  
FROM: Attorney General Nicholas J. Spaeth  
RE: Gaming Legislation  
DATE: March 16, 1989

Criminal Justice  
Training and  
Statistics Division  
701-224-2594

Fire Marshal  
701-224-2434

Gaming Division  
701-224-4848

Licensing Division  
701-224-2219

Division Offices  
Bismarck, ND 58502  
Bureau of Criminal  
Investigation  
P.O. Box 1054  
701-221-8180  
800-472-2185  
Toll Free in ND

Drug Enforcement  
Unit  
P.O. Box 993  
701-221-8188  
800-472-2185  
Toll Free in ND

### I. Administrative Rules

In response to a growing number of complaints that jar operators and other gaming employees were giving information about the status of pull-tab games that favored one player over another, the Attorney General's office promulgated rules in October 1986 that prohibited this "inside information."

Following this change in administrative rules, many jar operators complained that players were "badgering" them in an effort to continue to receive this obviously popular information. In an effort to assist the jar operators and ensure that all players were aware of the law, the administrative rules were amended in November 1987 to require that all charitable organizations post a large sign on every "jar" or at every "jar site" that indicated the giving of this information was a crime punishable by a specific penalty. After the gaming rules prohibiting inside information were adopted in October 1986 and November 1987, our office administratively prosecuted complaints against organizations for providing this information to customers.

### II. Description of the Problem

Inside information is extremely easy for jar operators to obtain. All a jar operator must do is determine the "ideal profit" for the pull-tab game which is usually listed on the "flare" for each game or the box that the game is shipped in. The gaming employees then simply must compare the money that was in the "starting bank" (this would be the money needed to start the evening in order to pay initial winners) with the money in the

"bank" anytime during the evening. A comparison of the amount in the bank with the ideal profit will indicate exactly how much money remains to be made (or lost) if all remaining tickets in the jar were purchased. Additionally, the "smarter" players do not buy all the tickets in the game but instead buy tickets "incrementally" hoping to find most of the major winners before it is necessary to purchase all the tickets.

### III. Recent Investigation

In the fall of 1988, the Attorney General's office became aware that a small number of people were consistently winning large sums of money from pull-tab games. Investigators and auditors from our office, as well as local law enforcement agencies and the federal government conducted a wide-ranging investigation of this information. Among other things, police investigators focused on the "record of wins." This document is required to be filled out for all pull-tab winners of \$101 or more and contains the name of the winner, the serial number of the game played, the amount won, the date, and the jar operator's initials. Many of the organizations investigated, however, also maintained record of wins for games less than \$101. A joint task force of local law enforcement, our office, and the IRS investigated all gaming organizations in Grand Forks. All record of wins from every gaming organization in the city was entered into a computer. We also broadened the scope of the investigation to include eight other cities in the state but we did not have the resources to check every gaming site in the state of North Dakota.

We discovered that a large number of people have won \$50,000 or greater in North Dakota by playing pull-tab games. In fact, one person had gross winnings in excess of \$1½ million.

It also became apparent from analyzing computer records that while not necessarily all the players were obtaining inside information, the vast majority were. It was also very apparent that the majority of players who were obtaining these winning obtained them from certain jar operators.

After this information was analyzed, law enforcement investigators interviewed many of the jar operators and players. Although these interviews are continuing, some of the comments are relevant to legislation pending before this committee.

Those comments follow:

"It goes on all over in the gaming industry."

"(Name withheld) primarily lived off his gaming profits. Those profits could amount to \$100,000 or more."

"(Name withheld) makes a decent living off of gaming while he is unemployed."

"25-35% of (Name withheld) success could be attributed to some type of inside information."

"(Name withheld) gaming profits were the result of approximately 60% inside information."

"A player admitted that in a two year period of time he would estimate the dollar amount won from pull-tab activity at between \$2-3 million dollars. He attributed his gaming success to 50% skill and 50% to inside information."

"The giving of inside information goes on widespread in the gaming community. Almost all jar operators give it and the majority of pull-tab players play off of it."

"As I told you before, the gaming operation in this town is set up on scratching each other's back."

"When one is known as a consistent good tipper, people look out for you."

"The places where one plays are places where you can trust the employees not to give bad information. There is more or less a gentlemen's agreement that the big players stay in their own area."

"There are groups of individuals in this industry who play 'partners.' (That was explained as jar operators at one site would call jar operators at another site giving information about jars. When those operators had the opportunity they would play at each other's sites, then split the proceeds.) One of those partnership teams has been identified with each of the partners obtaining close to or over \$100,000 per year in gaming wins from each other's sites."

"One player was able to list 19 jar operators who had given him inside information in the last two years."

"One player listed a number of individuals who make a living playing the jars. He stated that he knows

Ex. 15  
2-12-91  
HB 308

that those individuals' play is based at least upon 50% inside information."

"One player stated that during the first months of 1988, his gaming profits totalled approximately \$60,000."

"Inside information is available at 90% of all gaming sites in this area." (A large metropolitan city in North Dakota.)

"A player indicated he had received inside information from a jar operator at least 300 times during 1987 and 1988. They tell you exactly what was left and how much money you can make, or don't go into this one because you're going to lose that much money, stuff like that."

"Several players stated that they had witnessed jar operators making telephone calls and that amount 10 minutes later 'regular players' would show up and walk right up to a particular jar, lay down their money and begin playing a jar that the player suspected to be hot."

"One part-time jar operator admitted to receiving over \$10,000 in tips during one year."

#### IV.

#### Conclusion

Of the 34 gaming sites fully investigated, inside information was found to be a problem in all locations. The results of the investigation are still ongoing but early results have been forwarded to local state's attorneys for their consideration. The Grand Forks County State's Attorney's Office has contacted our office with their concerns and their letter is attached to this memorandum.

cv  
Enclosure

EXHIBIT 16  
DATE Feb. 12, 1991  
HB 308

EXHIBIT 16  
DATE Feb. 12, 1991  
HB 308

HOUSE

TRAFFIC DIVISION  
A. FRED ARNAS  
JUVENILE DIVISION  
DAMON ANDERS  
CHILD SUPPORT  
SONJA CLAPP

gation

ney's Office would  
the North Dakota State  
es in the North Dakota  
the Grand Forks Police  
onal Investigation, and  
extensive investiga-  
ning Laws in Grand Forks  
s which have been  
been forwarded to your

has been continual and  
by a number of pull tab  
mple, one individual  
cess of 2 million  
e been able to document  
000.00 through audits of  
of these tickets are  
would lead us to  
mate of gross winnings

us other people in the  
the alleged parties to  
ade extensive profits

of the people making  
gaming are those indi-  
former gaming employees  
s is a particular  
the vast majority of  
ed legally, but these  
fairly by the system.  
are not being given an  
chance of winning  
certain gaming  
play the jars with  
probability of

reaction of the Legislature will be  
fy these individuals and prosecute them  
e attempting to do that, but there are  
on problems. We are aware of many of  
n schemes due to statements given by  
s involved in the scheme. As you are  
alone would not be sufficient to  
under North Dakota law. Other evidence  
icult to establish.

of the proposals that you have sub-  
ture. I would strongly endorse all of  
request that the Legislature do away  
tabs. I believe there are only two  
el eliminate inside information. The  
ype of mechanical or computerized  
ple mixed games in the same jar. The  
w an inside information scheme.

st that people employed in gaming  
orth Dakota, not be allowed to be  
t other sites within the State. There  
indicate that many of the participants  
tion scheme are employees of separate  
st one another at each others sites.

our office can be of assistance,  
ontact me. I have not detailed the  
gation as you have extensive reports on  
Thank you for whatever assistance you

2.  
orney

February 25, 1991

House Business & Economic Development Committee  
Capitol Station  
Helena, Montana 59620

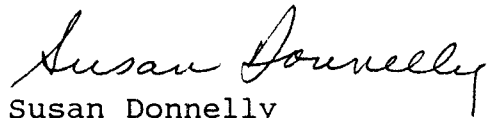
Re: HB 308 - Authorize Punchboards & Pulltabs

My husband and I wish to go on record as being strongly against this bill. We are opposed to any expansion of gambling in the state.

We hope that you will oppose this and any other legislation which expands gambling.

Thank you.

Sincerely,



Susan Donnelly  
(Mr. and Mrs. Greg Donnelly)  
227 Trinkus Lane  
Bigfork, Montana 59911



# OPERATORS SUMMARY

For the Quarter Ended December 31, 1989

	<u>Bingo</u>	<u>Punchboards/ Pull Tabs</u>	<u>Card Rooms</u>	<u>Raffles</u>	<u>Fund Raising Events</u>	<u>Total</u>
Gross Receipts	\$39,168,728	\$102,265,719	\$2,459,349	\$469,243	\$526,916	\$144,889,955
Prizes Paid	<u>28,874,953</u>	<u>69,960,649</u>	<u>27,999</u>	<u>182,281</u>	<u>32,581</u>	<u>99,078,463</u>
Net Receipts	\$10,293,775	\$32,305,070	\$2,431,350	\$286,962	\$494,335	\$45,811,492
Expenses	<u>6,613,311</u>	<u>22,320,557</u>	<u>1,463,713</u>	<u>53,997</u>	<u>121,996</u>	<u>30,573,574</u>
Net Income	\$3,680,464	\$9,984,513	\$967,637	\$232,965	\$372,339	\$15,237,918

# OPERATORS SUMMARY

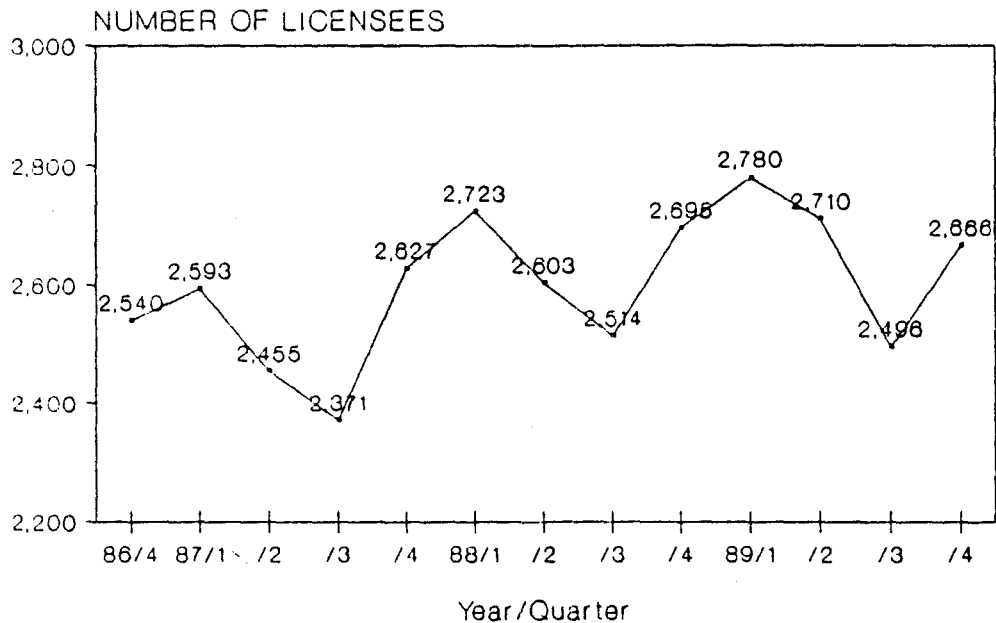
For the Twelve Months Ended December 31, 1989 (1)

	<u>Bingo</u>	<u>Punchboards/ Pull Tabs</u>	<u>Card Rooms</u>	<u>Raffles</u>	<u>Fund Raising Events</u>	<u>Total</u>
Gross Receipts	\$153,102,512	\$395,011,704	\$8,796,406	\$2,876,219	\$1,709,796	\$561,496,637
Prizes Paid	<u>112,103,627</u>	<u>271,465,274</u>	<u>231,767</u>	<u>946,081</u>	<u>79,526</u>	<u>384,826,275</u>
Net Receipts	\$40,998,885	\$123,546,430	\$8,564,639	\$1,930,138	\$1,630,270	\$176,670,362
Expenses	<u>25,099,253</u>	<u>84,303,647</u>	<u>5,375,976</u>	<u>353,343</u>	<u>425,849</u>	<u>115,558,068</u>
Net Income	\$15,899,632	\$39,242,783	\$3,188,663	\$1,576,795	\$1,204,421	\$61,112,294

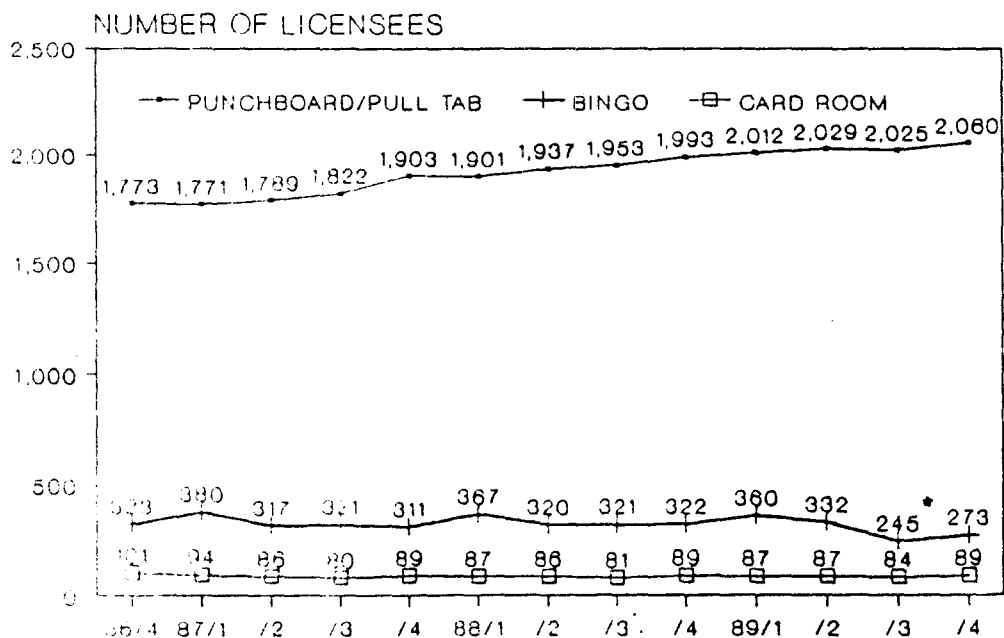
(1) Includes all amended reports received by 04/12/90.

## GROWTH SUMMARY - REPORTING ACTIVITY

### ALL GAMBLING ACTIVITIES



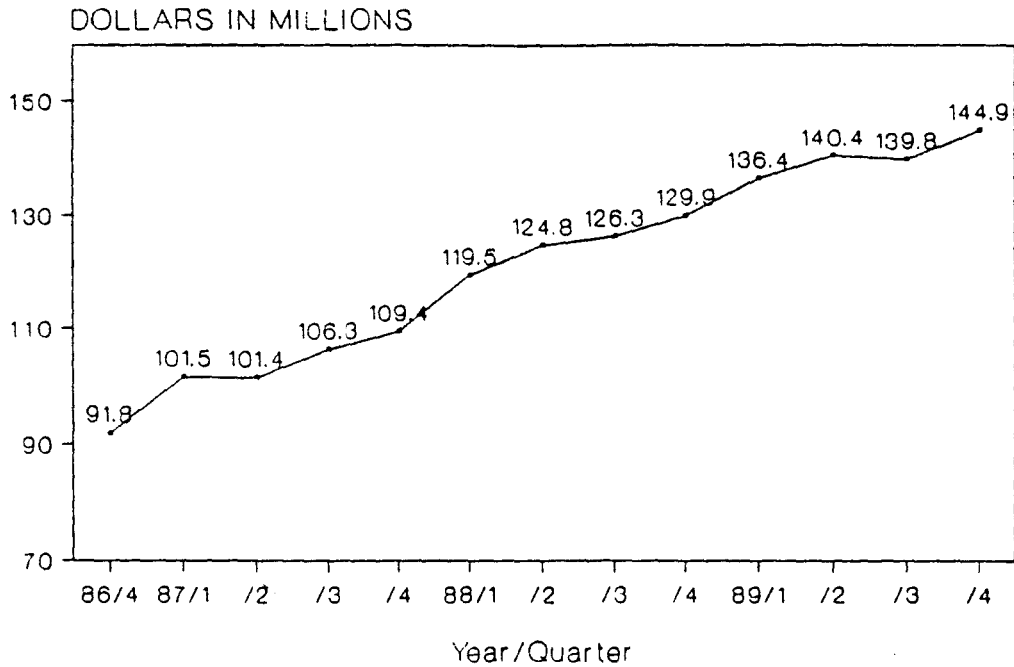
### SELECTED ACTIVITIES



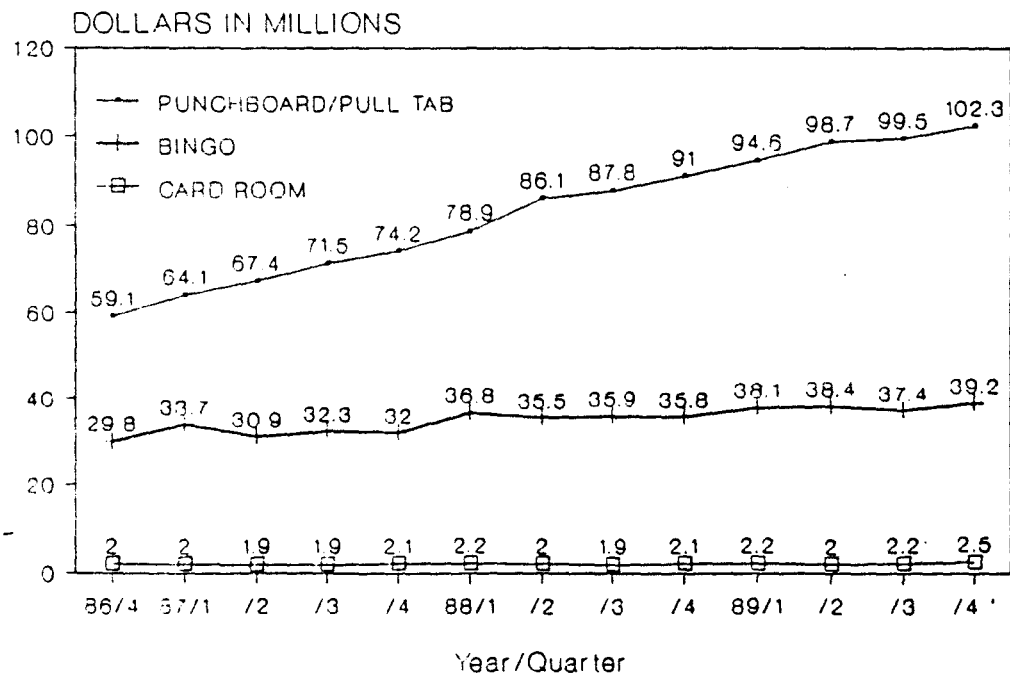
\*Decline in Bingo licensees due to change in reporting requirements for class "C" games from a quarterly basis to annual.

## GROWTH SUMMARY - GROSS GAMBLING RECEIPTS

### ALL GAMBLING ACTIVITIES



### SELECTED ACTIVITIES

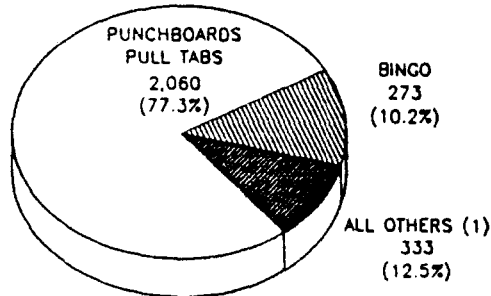


Ex. 18  
2/12/91  
HB 308

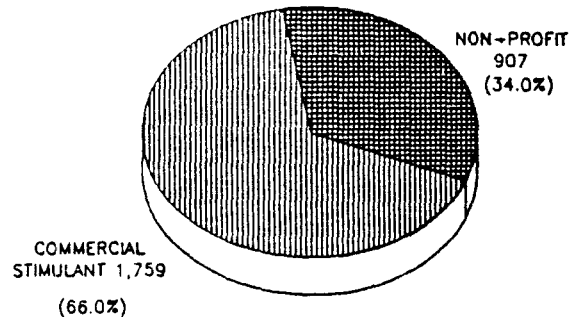
## DISTRIBUTION OF GAMBLING ACTIVITY FOR THE QUARTER ENDED DECEMBER 31, 1989

NUMBER OF LICENSEES REPORTING ACTIVITY - 2,666

By Type of Activity

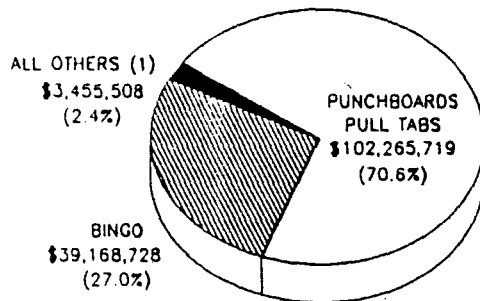


By Type of Licensee

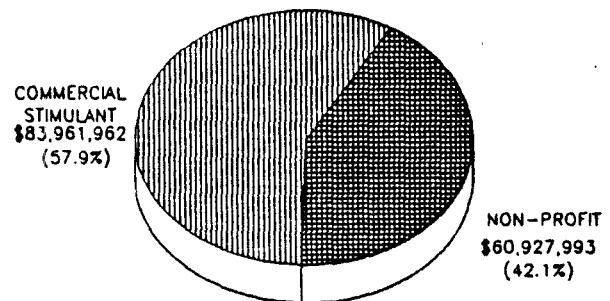


GROSS GAMBLING RECEIPTS REPORTED - \$144,889,955

By Type of Activity



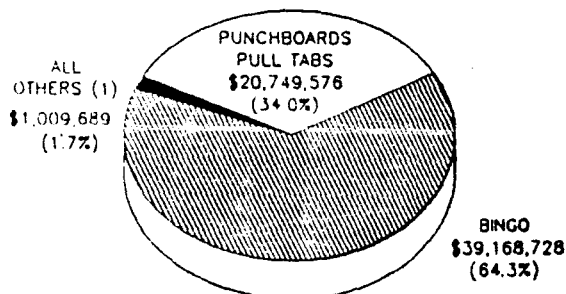
By Type of Licensee



### GROSS GAMBLING RECEIPTS BY TYPE OF LICENSEE

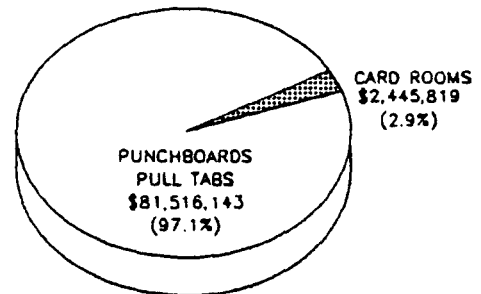
Non-Profit Licensees

Total - \$60,927,993



Commercial Stimulant Licensees

Total - \$83,961,962

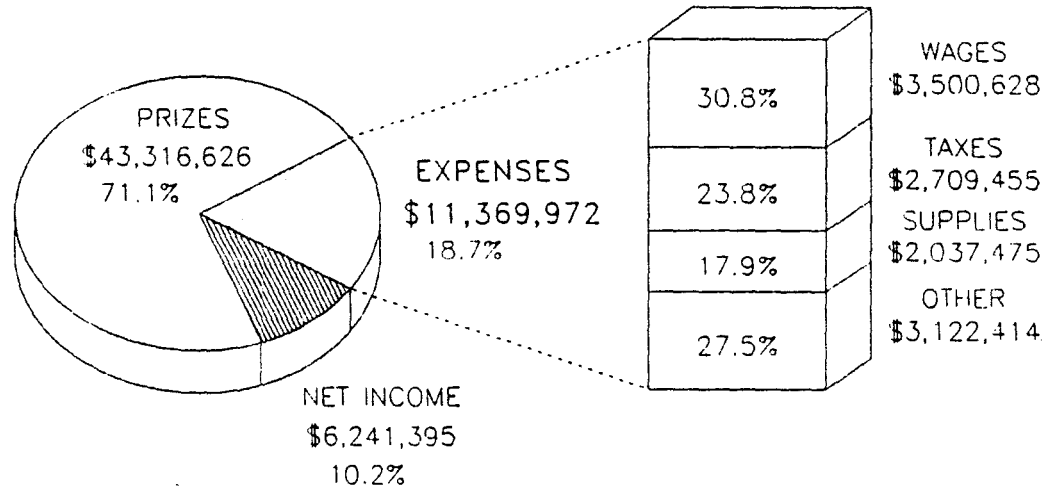


(1) NOTE: "All others" include Fund Raising Events, Raffles and Card Rooms.

# DISTRIBUTION OF GROSS GAMBLING RECEIPTS

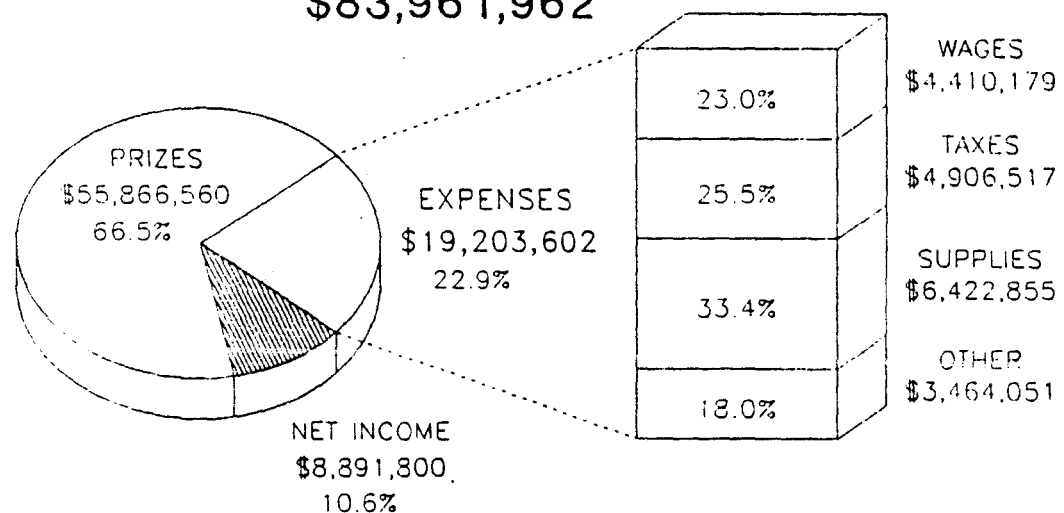
## NON-PROFIT

**\$60,927,993**

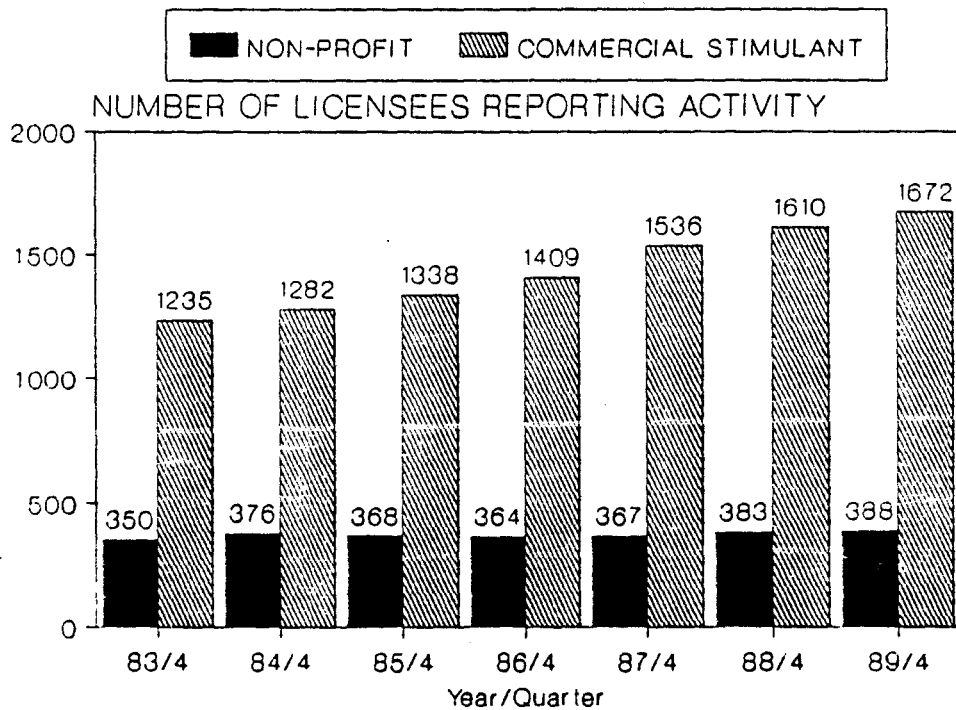
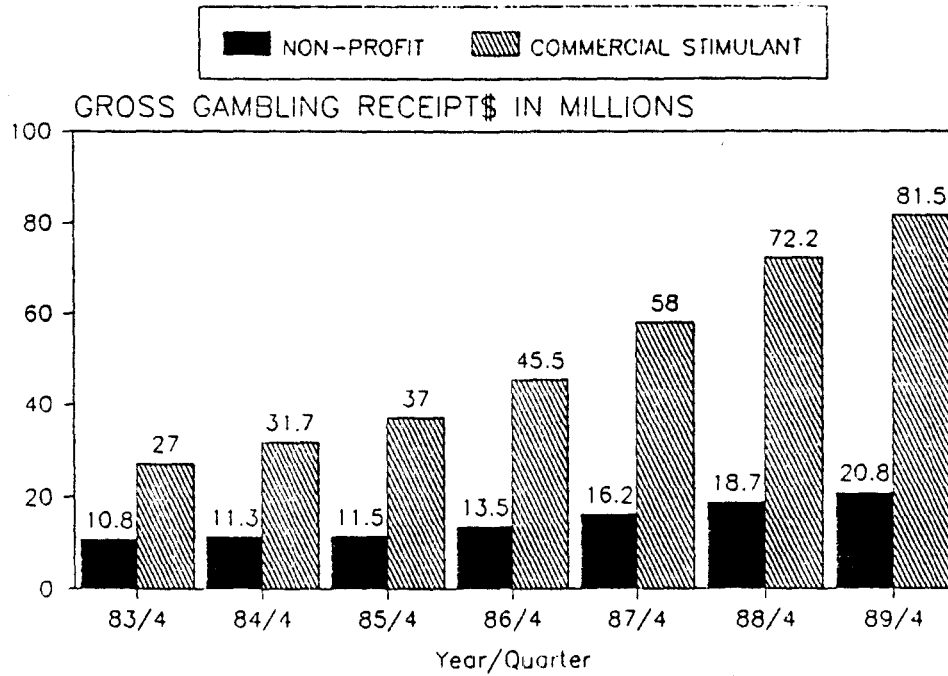


## COMMERCIAL STIMULANT

**\$83,961,962**



## 4TH QUARTER GROWTH - PUNCHBOARD/PULL TAB



2-12-84  
H/B 308

**BINGO**  
**TOP TEN GROSS RECEIPTS:**  
**FOR THE QUARTER ENDED DECEMBER 31, 1989**

	GROSS RECEIPTS	PRIZES PAID	PO%	WAGES	OTHER EXPENSES	NET INCOME	NI%	ATTENDANCE	PER PLAYER AVERAGES:		
									GROSS	EXPENSES	INCOME
1. SEATTLE JUNIOR HOCKEY	\$1,400,077	\$930,627	66.5%	\$78,902	\$169,801	\$220,747	15.8%	38,900	\$35.99	\$6.39	\$5.67
2. CENTRAL AREA YOUTH ASN	1,216,060	788,956	64.9%	60,035	168,938	198,131	16.3%	32,592	\$37.31	\$7.03	\$6.08
3. JAYCEES/SEATTLE	1,060,204	695,625	65.6%	110,908	119,670	134,001	12.6%	30,820	\$34.40	\$7.48	\$4.35
4. SPOKANE A.R.T.	1,044,505	749,569	71.8%	85,513	110,374	99,049	9.5%	51,236	\$20.39	\$3.82	\$1.93
5. SNO-KING AMATEUR HOCKEY	991,114	663,453	66.9%	75,300	137,378	114,983	11.6%	31,333	\$31.63	\$6.79	\$3.67
6. BIG BROS/SISTERS/SPOKANE	910,390	632,981	69.5%	73,711	103,969	99,729	11.0%	43,900	\$20.74	\$4.05	\$2.27
7. BIG BROTHERS/KING COUNTY	821,713	530,225	64.5%	41,760	112,215	137,513	16.7%	27,572	\$29.80	\$5.58	\$4.99
8. SEATTLE SKATING CLUB INC.	803,512	572,498	71.2%	37,839	96,446	96,729	12.0%	24,736	\$32.48	\$5.43	\$3.91
9. IMPERIALS MUSIC/YOUTH	790,548	555,083	70.2%	50,223	115,613	69,629	8.8%	24,743	\$31.95	\$6.70	\$2.81
10. SPOKANE YOUTH SPORTS	770,108	552,984	71.8%	52,527	92,764	71,833	9.3%	35,394	\$21.76	\$4.10	\$2.03
.	\$9,808,231	\$6,672,001	68.0%	\$666,718	\$1,227,168	\$1,242,344	12.7%	341,226	\$28.74	\$5.55	\$3.64

PERCENT OF BINGO												
TOTALS	25.0%	23.1%	28.6%	28.7%	33.8%	17.1%						

# PUNCHBOARD / PULLTAB - STATISTICS FOR THE QUARTER ENDED DECEMBER 31, 1989

	COMMERCIAL STIMULANT LICENSEES	NON-PROFIT LICENSEES	TOTAL LICENSEES
PUNCHBOARDS:			
GROSS RECEIPTS	\$5,665,362 100.0%	\$353,439 100.0%	\$6,018,801 100.0%
PRIZES - CASH	2,851,563 50.3	190,026 53.8	3,041,589 50.5
- MERCHANDISE	670,139 11.8	40,079 11.3	710,218 11.8
PUNCHBOARD NET RECEIPTS	\$2,143,660 37.9%	\$123,334 34.9%	\$2,266,994 37.7%
PULL TABS:			
GROSS RECEIPTS	\$75,850,781 100.0%	\$20,396,137 100.0%	\$96,246,918 100.0%
PRIZES - CASH	52,052,518 68.6	13,934,200 68.3	65,986,718 68.6
- MERCHANDISE	159,618 0.2	62,506 0.3	222,124 0.2
PULL TAB NET RECEIPTS	\$23,638,645 31.2%	\$6,399,431 31.4%	\$30,038,076 31.2%
COMBINED TOTALS:			
GROSS RECEIPTS	\$81,516,143 100.0%	\$20,749,576 100.0%	\$102,265,719 100.0%
PRIZES - CASH	54,904,081 67.4	14,124,226 68.1	69,028,307 67.5
- MERCHANDISE	829,757 1.0	102,585 0.5	932,342 0.9
TOTAL NET RECEIPTS	\$25,782,305 31.6%	\$6,522,765 31.4%	\$32,305,070 31.6%
EXPENSES:			
WAGES	\$3,722,205 4.6%	\$1,113,896 5.3	\$4,836,101 4.7
SUPPLIES	6,407,717 7.8	1,297,718 6.2	7,705,435 7.5
TAXES - LOCAL	2,983,096 3.7	763,231 3.7	3,746,327 3.7
- STATE	1,052,830 1.3	322,292 1.6	1,375,122 1.3
- FEDERAL	470,127 0.6	139,580 0.7	609,707 0.6
OCCUPANCY	1,921,674 2.4	550,939 2.7	2,472,613 2.4
EQUIPMENT - PURCHASES	94,574 0.1	9,983 0.0	104,557 0.1
- DEPRECIATION	54,581 0.1	38,256 0.2	92,837 0.1
ADVERTISING	119,930 0.1	81,796 0.4	201,726 0.2
CONTRACT SERVICES	169,817 0.2	101,551 0.5	271,368 0.3
OVER/SHORT & OTHER	751,369 0.9	153,395 0.7	904,764 0.9
TOTAL EXPENSES	\$17,747,920 21.8%	\$4,572,637 22.0%	\$22,320,557 21.8%
NET INCOME:	\$8,034,385 9.8%	\$1,950,128 9.4%	\$9,984,513 9.8%



# PUNCHBOARD / PULLTAB - STATISTICS FOR THE QUARTER ENDED DECEMBER 31, 1989

	COMMERCIAL STIMULANT LICENSEES	NON-PROFIT LICENSEES	TOTAL LICENSEES
AVERAGE NET INCOME:	\$4,805	\$ 5,026	\$4,847
NUMBER OF LICENSEES:			
-REPORTING ACTIVITY **	1,672	388	2,060
-REPORTING NO ACTIVITY	39	41	80
-NOT REPORTING	23	4	27
TOTAL	1,734	393	2,167
**PERCENT OF:			
-LICENSEES	81.6%	18.4%	100.0%
-GROSS RECEIPTS	79.7%	20.3%	100.0%
-NET INCOME	80.5%	19.5%	100.0%

## TOP 10 GROSS RECEIPTS

	GROSS RECEIPTS	PRIZES PAID	PO%	WAGES	OTHER EXPENSES	NET INCOME	NI%
1. BARKERVILLE TAVERN/SUMAS	\$1,495,050	\$1,172,395	78.4%	\$38,542	\$142,094	\$142,019	9.5%
2. LONE JACK SALOON/SUMAS	899,658	705,732	78.4%	66,196	103,642	24,088	2.7%
3. B & B TAVERN/SUMAS	789,944	624,316	79.0%	31,343	89,625	44,660	5.7%
4. PASTIME TAVERN/BELLINGHAM	781,941	612,858	78.4%	17,445	68,731	82,907	10.6%
5. REEF TAVERN/PT. ROBERTS	670,935	511,500	76.2%	71,575	71,294	16,566	2.5%
6. SEATTLE JUNIOR HOCKEY ASSOC.	641,195	433,656	67.6%	47,116	96,658	63,765	9.9%
7. ROXBURY REST/LOUNGE/SEATTLE	621,110	450,722	72.6%	20,570	78,310	71,508	11.5%
8. BREAKERS, THE/PT. ROBERTS	606,445	460,269	75.9%	36,357	60,676	49,143	8.1%
9. TONYS TAVERN/CUSTER	480,999	378,766	78.7%	21,312	45,583	35,338	7.3%
10. NEW FRONTIER/TACOMA	480,189	355,381	74.0%	18,755	67,177	38,876	8.1%
% OF PB/PT TOTALS	\$7,467,466	\$5,705,595	76.4%	\$369,211	\$823,790	\$568,870	7.6%
							5.7%

\* Non-Profit Licensee

EXHIBIT 18  
DATE 2/12/91  
HB 308

**MANUFACTURERS - STATISTICS**  
**FOR THE QUARTER ENDED DECEMBER 31, 1989**

	<u>GROSS SALES TO DISTRIBUTORS</u>		<u>QUANTITY</u>	<u>AVERAGE COST PER UNIT</u>
PUNCHBOARDS	\$202,350	3.3%	41,868	\$4.83
PULL TABS	5,549,543	90.1	253,643	\$21.88
DISPENSING DEVICES	21,997	0.4	105	\$209.50
OTHER (1)	384,145	6.2		
TOTAL (2)	\$6,158,035	100.0%		

NUMBER OF LICENSEES:

- REPORTING ACTIVITY	18
- REPORTING NO ACTIVITY	0
TOTAL	18

**DISTRIBUTORS - STATISTICS**  
**FOR THE QUARTER ENDED DECEMBER 31, 1989**

	<u>GROSS SALES TO OPERATORS (3)</u>		<u>QUANTITY</u>	<u>AVERAGE COST PER UNIT</u>
PUNCHBOARDS	\$408,009	4.1%	48,379	\$8.43
PULL TABS	6,256,217	63.2	219,143	\$28.55
DISPENSING DEVICES	45,837	0.5	118	\$388.45
OTHER (1)	3,179,686	32.2		
TOTAL	\$9,886,099	100.0%		

NUMBER OF LICENSEES:

- REPORTING ACTIVITY	24
- REPORTING NO ACTIVITY	0
TOTAL	24

(1) COMPOSED OF MERCHANDISE PRIZES AND GAMING EQUIPMENT RENTAL.

(2) OUT-OF-STATE MANUFACTURERS ACCOUNT FOR \$3,110,534 (50.5%) OF TOTAL MANUFACTURER GROSS RECEIPTS.

(3) SALES OF \$140,090 TO OTHER DISTRIBUTORS IS EXCLUDED.

COMBINED STATISTICS BY COUNTY  
FOR THE QUARTER ENDED DECEMBER 31, 1989

COUNTY:	NUMBER OF LICENSEES*	GROSS RECEIPTS	PRIZES PAID	NET RECEIPTS	EXPENSES	NET INCOME
ADAMS	12	\$186,777	\$120,540	\$66,237	\$44,924	\$21,313
ASOTIN	21	1,159,941	816,819	343,122	204,689	138,433
BENTON	54	2,586,307	1,785,035	801,272	571,518	229,754
CHELAN	47	1,786,244	1,189,733	596,511	320,670	275,841
CLALLAM	44	1,474,967	1,006,128	468,839	266,052	202,787
CLARK	103	8,364,909	5,613,284	2,856,348	1,966,887	889,461
COLUMBIA	8	83,922	51,173	32,749	10,121	22,628
COWLITZ	87	4,820,202	3,314,415	1,505,787	1,012,572	493,215
DOUGLAS	14	390,157	239,183	150,974	77,620	73,354
FERRY	9	159,876	102,962	56,914	31,655	25,259
FRANKLIN	29	1,130,054	831,969	298,085	195,658	102,427
GARFIELD	3	52,980	33,377	19,603	3,662	15,941
GRANT	59	1,745,316	1,168,430	576,886	345,073	231,813
GRAYS HARBOR	128	3,957,953	2,608,489	1,349,464	704,631	644,833
ISLAND	30	890,813	635,480	255,333	196,929	58,404
JEFFERSON	20	364,670	258,182	106,488	59,360	47,128
KING	388	28,563,356	18,974,941	9,588,415	6,460,907	3,127,508
KITSAP	133	5,841,002	4,011,410	1,829,592	1,234,404	595,188
KITTITAS	29	614,167	403,039	211,128	104,349	106,779
Klickitat	16	371,490	243,743	127,747	57,127	70,620
LEWIS	81	2,199,271	1,484,283	714,988	425,228	289,760
LINCOLN	14	100,761	66,323	34,438	20,441	13,997
MASON	40	1,429,248	978,425	450,823	287,098	163,725
OKANOGAN	50	1,116,778	733,567	383,211	251,044	132,167
PACIFIC	44	1,421,377	987,120	434,257	275,418	158,839
PEND OREILLE	12	211,211	151,596	59,615	34,937	24,678
PIERCE	327	17,223,722	11,532,335	5,691,387	3,628,882	2,062,505
SAN JUAN	7	140,319	89,160	51,159	25,278	25,881
SKAGIT	67	2,327,669	1,665,035	662,634	486,449	176,185
SKAMANIA	6	253,589	179,264	74,325	38,696	35,629
SNOHOMISH	226	16,138,512	11,017,591	5,120,921	3,637,974	1,482,947
SPOKANE	200	12,045,513	8,470,042	3,575,471	2,588,109	987,362
STEVENS	30	586,462	403,046	183,416	98,673	84,743
THURSTON	82	3,385,470	2,210,402	1,175,068	805,822	369,246
WAHIAKUM	4	79,463	51,736	27,727	12,302	15,425
WALLA WALLA	29	849,114	570,878	278,236	162,254	115,982
WHATCOM	89	15,284,740	11,334,748	3,949,992	2,858,926	1,091,066
WHITMAN	15	140,183	91,049	49,134	18,349	30,785
YAKIMA	109	5,411,450	3,758,254	1,653,196	1,048,886	604,310
TOTAL	2666	\$144,889,955	\$99,183,186	\$45,811,492	\$30,573,574	\$15,237,918

\* Only includes licensees reporting activity.

**PUNCHBOARD / PULL TAB STATISTICS BY COUNTY**  
**FOR THE QUARTER ENDED DECEMBER 31, 1989**

COUNTY:	<u>NUMBER OF LICENSEES*</u>	<u>GROSS RECEIPTS</u>	<u>PRIZES PAID</u>	<u>NET RECEIPTS</u>	<u>EXPENSES</u>	<u>NET INCOME</u>
ADAMS	11	\$186,695	\$120,509	\$66,186	\$44,874	\$21,312
ASOTIN	12	982,118	703,304	278,814	173,461	105,353
BENTON	46	1,858,748	1,269,128	589,620	431,786	157,834
CHELAN	34	1,507,342	1,001,992	505,350	276,918	228,432
CLALLAM	29	906,429	608,812	297,617	188,395	109,222
CLARK	82	5,202,848	3,495,316	1,707,532	1,227,496	480,036
COLUMBIA	6	80,566	51,173	29,393	9,566	19,827
COWLITZ	71	3,740,953	2,561,326	1,179,627	812,273	367,354
DOUGLAS	12	362,953	232,883	130,070	63,411	66,659
FERRY	8	137,586	87,139	50,447	30,355	20,092
FRANKLIN	18	449,374	299,515	149,859	103,163	46,696
GARFIELD	2	34,520	17,957	16,563	3,001	13,562
GRANT	43	1,453,132	962,302	490,830	300,322	190,508
GRAYS HARBOR	97	3,272,221	2,136,340	1,135,881	626,797	509,084
ISLAND	23	700,420	496,299	204,121	167,163	36,958
JEFFERSON	13	230,118	149,294	80,824	46,946	33,878
KING	266	16,982,679	11,496,754	5,485,925	4,045,137	1,440,788
KITSAP	95	4,039,752	2,705,183	1,334,569	946,816	387,753
KITTITAS	26	515,941	331,277	184,664	93,020	91,644
Klickitat	14	360,653	242,739	117,914	51,929	65,985
LEWIS	68	1,830,777	1,207,940	622,837	363,214	259,623
LINCOLN	13	100,554	66,278	34,276	20,291	13,985
MASON	33	1,202,650	803,835	398,815	270,322	128,493
OKANOGAN	36	908,577	589,196	319,381	229,326	90,055
PACIFIC	40	1,103,650	749,963	353,687	222,754	130,933
PEND OREILLE	11	176,383	122,011	54,372	26,552	27,820
PIERCE	253	13,382,304	8,971,477	4,410,827	2,839,107	1,571,720
SAN JUAN	7	140,319	89,160	51,159	25,278	25,881
SKAGIT	52	2,121,140	1,515,492	605,648	453,947	151,701
SKAMANIA	5	237,515	167,891	69,624	37,250	32,374
SNOHOMISH	180	11,573,598	7,823,455	3,750,143	2,797,274	952,869
SPOKANE	163	7,129,790	4,971,368	2,158,422	1,540,040	618,382
STEVENS	28	537,318	364,246	173,072	89,261	83,811
THURSTON	65	2,785,044	1,854,833	930,211	663,323	266,888
WAHIAKUM	4	79,463	51,736	27,727	12,302	15,425
WALLA WALLA	22	714,159	484,281	229,878	138,563	91,315
WHATCOM	71	11,996,128	8,998,488	2,997,640	2,228,102	769,538
WHITMAN	10	98,610	66,194	32,416	15,431	16,985
YAKIMA	91	3,142,692	2,093,563	1,049,129	705,391	343,738
<b>TOTAL</b>	<b>2060</b>	<b>\$102,265,719</b>	<b>\$69,960,649</b>	<b>\$32,305,070</b>	<b>\$22,320,557</b>	<b>\$9,984,513</b>

\* Only includes licensees reporting activity.

EXHIBIT 12 ✓  
DATE 2/12/91  
HB 308

**LICENSE STATUS AND ACTIVITY REPORT  
FOR THE QUARTER ENDED DECEMBER 31, 1989**

	TOTAL ACTIVE LICENSEES			
	AT 12/31/89	AT 12/31/88*	AT 12/31/87*	AT 12/31/86*
REVENUE GENERATING LICENSES:				
BINGO	534	536	569	563
PUNCHBOARDS/PULL TABS:				
CHARITY/NONPROFIT	389	382	411	364
COMMERCIAL STIMULANT	1,718	1,645	1,848	1,501
CARD ROOMS:				
CHARITY/NONPROFIT	2	3	2	1
COMMERCIAL STIMULANT	99	105	125	133
RAFFLES	482	473	490	475
AMUSEMENT GAMES:				
CHARITY/NONPROFIT	48	37	31	29
COMMERCIAL-CARNIVAL OPERATORS**	22	24	26	23
SINGLE EVENT:				
FRE (RENO NIGHTS)	587	632	710	890
TOTAL - REVENUE GENERATING	3,881	3,837	4,212	3,979
NON-REVENUE GENERATING LICENSES:				
CARD ROOMS:				
CHARITY/NONPROFIT	108	112	115	108
COMMERCIAL STIMULANT	192	182	203	202
TOTAL - NON-REVENUE GENERATING	300	294	318	310
SERVICE/EMPLOYEE LICENSES:				
MANUFACTURERS	18	16	16	19
DISTRIBUTORS	24	31	31	31
MANUF/DIST REPRESENTATIVES	152	139	138	122
CARD ROOM EMPLOYEES	313	319	346	348
BINGO MANAGERS	564	547	530	587
TOTAL - SERVICE/EMPLOYEE	1,071	1,052	1,061	1,107
TOTAL - ALL ACTIVITIES	5,252	5,183	5,591	5,396
CHANGES TO CURRENT LICENSES:				
QUARTER ENDED 12/31/89	307			
LAST 12 MONTHS	1,747			

TOTAL FRE'S FISCAL YEAR-TO-DATE = 252

\* AMENDED FIGURES

\*\* EXCLUDES 230 CRANE TEST LICENSEES.

Section 7. Section 17-6-308, MCA, is amended to read:

"17-6-308. Authorized investments. (1) Except as provided in subsection (4) subsections (2) and (3) and subject to the provisions of 17-6-201, the Montana in-state investment permanent coal tax trust fund must be invested as authorized by rules adopted by the board. For purposes of this section, "investment" includes the guaranty of loans or bonds in consideration for a fee in lieu of the actual acquisition of such loans or bonds.

(2) The board may use the in-state investment fund to guarantee loans or bonds issued under the provisions of 17-5-1501 through 17-5-1529, Title 17, Chapter 5, part 167 or Title 90, Chapter 7. Each guaranty must be given in consideration of a fee. The fees must be paid to the board. The guaranty must provide directly or by separate agreement that the board is fully subrogated to the rights of the obligee under the loan or bond. The board shall by rule establish the maximum ratio between guaranty funds available and loans or bonds to be guaranteed. The board may covenant in bond issues to maintain such ratio. Unless bonds issued to finance a project are secured by a common capital reserve account and a common guaranty fund, the maximum amount of the guaranty authorized by this section may not exceed \$3,000,000 with respect to the bonds or loans to finance the project.

(3) The board may make loans from the in-state investment permanent coal tax trust fund to the capital reserve account created pursuant to 17-5-1515 and the guaranty fund created pursuant to 17-5-1520 to establish balances or restore deficiencies therein in the account. The board may agree in connection with the issuance of bonds or notes secured by such the account or fund to make such the loans. Loans must be on such terms and conditions as the board determines and must be repaid from revenues of the board realized from the exercise of its powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior pledge of the revenues to the bonds and notes.

(4) The board shall allow the Montana board of science and technology development provided for in 2-15-1818 to administer \$7.5 million of the in-state investment permanent coal tax trust fund for seed capital project loans pursuant only to the provisions of Title 90, Chapter 3. This authority does not extend beyond June 30, 1994. Until such time as the Montana board of science and technology development makes a loan pursuant to those provisions, the funds under its administration must be invested by the board of investments pursuant to the provisions of 17-6-201."

Section 8. Section 17-6-310, MCA, is amended to read:

"17-6-310. No direct loans. (1) The state may not use

Amendments to House Bill No. 479  
First Reading Copy

Requested by Representative Hayne  
For the Committee on Business and Economic Development

Prepared by Bart Campbell  
February 6, 1991

1. Page 3, lines 5 and 6.

Following: "assistance"

Strike: "if" on line 5 through "criteria:" on line 6

Insert: ". The rules should recognize that different criteria  
may be needed for nonprofit corporations than for for-profit  
corporations."

2. Page 3, lines 7 through 16.

Following: line 6

Strike: subsections (a) through (d) in their entirety

Amendments to House Bill No. 479  
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon  
February 7, 1991

1. Page 3, lines 5 through 16.

Following: "assistance" on line 5

Strike: remainder of line 5 through "investment" on line 16

Insert: ". The rules must recognize that different criteria may  
be needed for nonprofit corporations than for for-profit  
corporations"



**HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER**

Business & Econ Dev.

COMMITTEE

BILL NO. HB 503

DATE Feb. 12, 1991 SPONSOR(S) Rep. Fritz Daily

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
HARLEY WATKINS	MONTANA ASSOC. OF CHURCHES		X
Wendy L. Dillbeck	Business Women	X	
WARRY ALLEY	GAMING INDUSTRY ASSOC	X	
Chuck Anderson	Kalispell	X	
TERRY BELISLE	Billings	X	
Rita Ellis	Billings	X	
LOIS MENZIES	GAMBLING CONTROL DIV. DEPT. OF JUSTICE		X
DANIEL A. KRECK	MTA	X	
Mark [Signature]	"	X	
Charles A. Dillbeck	Basen	X	
Laura [Signature]	Good Samar	X	
Sue Rolwing	DGWF		X

**PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS  
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.**

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

1 of 2

Business & Econ. Dev. COMMITTEE BILL NO. HB 378

DATE Feb. 12, 1991 SPONSOR(S) Rep. Pavlovich

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Joseph B Dugal	Missoula Club, Inc	X	
JOHN KADIAN	T. Mauer Assoc.	X	
GEORGE PHILLIPS	SMOKELESS TOBACCO BUREAU	X	
MIKE PARKER	PONNINOWATOWI, INC.	X	
Scott LeProuse	DER Vend Inc.	X	
Earl Thomas	Amer Lung Assn	X	
BOB MOOD	AMER LUNG ASSN	X	
John T Loerke	Int. Red Assn	✓	
Tom Housley	Int. Food Distrib Assn		
MIKE MALES	self		X
Chuck Anderson	Kalispell	<del>X</del>	<del>X</del>
Bob Gilhef (Helena)	SELF	X	
Luigi Skier	Paul Salmon	X	
Gordian E Kiedrowski	Riverboat Casino & Dining	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS  
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

2062

Biz &amp; Econ

COMMITTEE

BILL NO.

378

DATE

2-12

SPONSOR(S)

PAULOVICH

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Roger Tippy	R J Reynolds Tobacco	378		X
<del>LONG MENZIES</del>	<del>GAMBLING CONTROL</del> <del>DIV. DEPT. OF JUSTICE</del>			
Paulette Kohnman	MT Council Mat & Child Health	378		w/ amendments
Darrell A Kock	MTA	378		X
Mark [unclear]	"	"		X
Chester Bullock	Basin			X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Feb. 12, 1991

VISITORS' REGISTER *RB 308 Rep. Menahan*

(Please leave prepared statement with Secretary)