

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on March 5, 1991, at 10:10 A.M.

ROLL CALL

Members Present:

Bill Strizich, Chairman (D)
Vivian Brooke, Vice-Chair (D)
Arlene Becker (D)
William Boharski (R)
Dave Brown (D)
Robert Clark (R)
Paula Darko (D)
Budd Gould (R)
Royal Johnson (R)
Vernon Keller (R)
Bruce Measure (D)
Charlotte Messmore (R)
Linda Nelson (D)
Angela Russell (D)
Jessica Stickney (D)
Howard Toole (D)
Tim Whalen (D)
Diana Wyatt (D)

Members Excused: Rep. Lee, Rep. Rice

Staff Present: John MacMaster, Leg. Council Staff Attorney
Jeanne Domme, Committee Secretary

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

HEARING ON SB 270 LEGALIZE AND REGULATE AMUSEMENT GAMES

Presentation and Opening Statement by Sponsor:

CHAIRMAN BILL STRIZICH noted prior to recognizing the sponsor that due to scheduling problems an additional hearing would be scheduled for a future date to allow additional testimony.

SENATOR WILLIAMS, SENATE DISTRICT 15, stated that SB 270 bill tries to separate carnival games from gambling. We have been working with the gaming people, carnival people, and various county commissioners that are responsible for the carnivals when they come to town. "We feel there is a big need for this bill and I will get into the bill further in the next hearing."

Proponents' Testimony:

Nick Nicholson, A & M Novelties, stated that SB 270 in part addressed problems that were encountered in the Flathead area and other areas where cranes were being utilized as a gambling machine. In August of 1989 my committee recommended to the Attorney General's office that a ruling should be made that cranes could not have a variable resistance or means of controlling the strength of the claw to retrieve prizes. We also recommend that there should be a license or permit fee to enable control of these machines. This bill has addressed this very amicably. It stipulates that no cash prizes can be awarded and that the machines be designed so as not to have any outside control for setting the claw so it will not retrieve prizes.

There is one point that should be reviewed in the sub-committee. On page 6, line 9, the Board of County Commissioners may issue an operator an annual permit for each crane game operated. There is no cap on this permit. Our recommendation is that a permit would be kept at a rate of \$25. Mr. Nicholson stated, "I would appreciate your favorable consideration on this bill."

Opponents' Testimony: none

Questions From Committee Members:

REP. BROWN asked Mr. Nicholson where a person would find these crane games?

Mr. Nicholson said they are in supermarkets, bowling alleys, and truck stops.

REP. BROWN asked if the crane games occasionally found in bars are the same as the ones found anywhere else?

Mr. Nicholson said that all machines are the same.

REP. BROWN asked Mr. Nicholson if it ever crossed his mind that this was a gambling game? Mr. Nicholson said no, not until we received an interpretation of a law that said any mechanical electronic game is gambling.

Closing by Sponsor:

SEN. WILLIAMS assured the committee there would be more testimony at the next hearing and is prepared to answer any questions the committee might have at this time or in the future.

HEARING ON HB 958
GENERALLY REVISE GAMBLING LAWS

Presentation and Opening Statement by Sponsor:

REP. DARKO, HOUSE DISTRICT 2, stated that HB 958 was requested by the Department of Justice. This bill is a clean-up bill. The problems the Department found they were having as far as definition language is in this bill. Rep. Darko presented some amendments that will be explained by Lois Menzies, these amendments deal with antique slot machines. EXHIBIT 1

Proponents' Testimony:

Lois Menzies, Administrative Officer for the Gambling Control Division, presented several technical amendments to HB 958. She noted that the intent of these revisions is to clarify these provisions and address conditions with efficiency. Ms. Menzies said should would walk the committee through the bill with the bill summary she passed out. EXHIBIT 2

David Shors, Missouri River Chronicle Antiques, Helena, gave written testimony in favor of HB 958. EXHIBIT 3

Gary Bennett, Montana Coin Machine Operator's Association, stated that he didn't find anything in the bill that causes any great concern. However, there is quite a lot of language in the bill that is similar to language that appears in a number of other bills floating around here in disarray. The language is different enough in a number of areas that separates the bill from those other bills. He stated that he hoped this bill, as well as the others, would be put in the same sub-committee and be considered all together.

Randy Reiger, Gaming Industry Association, stated that he sees good things in the bill but also some small problems and felt they could be worked out by the committee. He stated that the Gaming Industry Association has a set of amendments they would like the committee to look at. EXHIBIT 4.

Opponents' Testimony: none

Questions From Committee Members:

REP. WHALEN asked Ms. Menzies if it was permissible under this bill to show his 5 year old son how to play poker? Ms. Menzies stated that it is not permissible under current law.

REP. WHALEN then asked whether the Gambling Control Division would accept an amendment that said as long as a parent, aunt, uncle or close relative was with them a child could play the game together? Ms. Menzies said she doubted that the commission would support that.

REP. BOHARSKI asked Ms. Menzies if this bill deals with the problem of stacking liquor licenses? Ms. Menzies stated that this bill does not deal with that issue but SB 427 does address that issue.

REP. MEASURE asked Ms. Menzies why the department is proposing an increase in card game tournaments? Ms. Menzies stated that it is not the departments opinion that it is an expansion. Currently, the Department has adopted a rule that address card game tournaments. There is some question as to whether it is statutory to adopt the rule for the tournaments. The Department put the definition of card game tournament in this bill because the law omitted any reference to card game in conjunction with the tournaments. She felt that if the rule was not on the books, every card game table conducted as part of the tournament, would have to be licensed. She stated that this would be \$250 for the first table and \$500 for each additional table.

REP. MEASURE then asked Ms. Menzies what kind of penalties are on the books and if the bill addresses any penalties toward the operator for allowing a minor to participate? Ms. Menzies stated that currently an operator can be held responsible for permitting a minor to participate in any gambling activity and that it is covered in the new subsection one. A person can violate this subsection and still get the misdemeanor and that the misdemeanor penalties kick in through the operator.

REP. MEASURE asked what policy reason exists for having a misdemeanor offense for the individual who makes it possible and contributes to a delinquency of a minor. He asked why this isn't a felony? Ms. Menzies stated that this is current law. The Council did not take any action on that, nor did it add to this bill the penalty for the individual who is participating in the game, the minor. That particular amendment came at the request of the operators who said it is not always easy to tell who is under the age of 18.

REP. MEASURE asked Ms. Menzies what fiscal impact, under section 19, does the amendment eliminating the existing tax and instituting a tax of 1% on gross proceeds going to have on the state? What is the purpose of changing that? Ms. Menzies stated under current law we receive about \$46,000 in live keno taxes. Eliminating the net, would bring that around to \$41,000 which would be a loss of about \$5,000. The idea behind eliminating the net tax is an effort to simplify.

REP. MEASURE asked how a sports pool is monitored? Ms. Menzies stated that they are monitored by outside inspections of the games.

REP. BROWN asked Ms. Menzies to refer to page 10, line 6, and asked her to describe what "predominantly commercial manner" mean? Ms. Menzies stated that term is not defined.

REP. BROWN asked if a home or the Lt. Governor's Office could come under this definition? Ms. Menzies said that by using the example of a poker table closing down at 2 o'clock and someone moved the table to a private residence and continues to be played in a commercial manner, then it would fall under that definition.

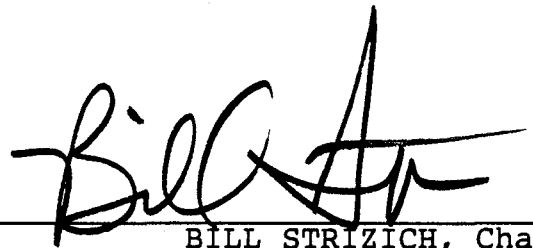
REP. BROWN stated that on page 19 and 20, regarding the penalty provisions, the gambling related misdemeanor provision would mean I could not get a gambling license for 5 years if convicted. He asked Ms. Menzies if that was correct? Ms. Menzies stated that it was correct.

Closing by Sponsor:

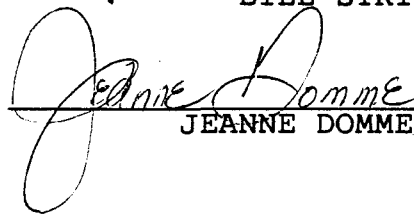
REP. DARKO stated she would be happy to work with the sub-committee when appointed. She stated that she would like to add high school senior "casino parties" to the bill at a later date.

ADJOURNMENT

Adjournment: 11:16 A.M.



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

BS/jmd

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 3-5-91

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE			/
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	/		
REP. LINDA NELSON	/		
REP. JIM RICE			/
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN	/		
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		

EXHIBIT 1
DATE 3-5-91
HB 958

SPONSOR AMENDMENTS TO HOUSE BILL NO. 958

Submitted by Representative Paula Darko
March 5, 1991

1. Page 16, line 3.

Following: "manufacturer-distributor"

Insert: "or a person licensed under subsection (4)"

2. Page 16, line 4.

Following: "of"

Insert: "commercially"

3. Page 16.

Following: line 5

Insert: "(4) A person other than a licensed manufacturer-distributor may not sell more than three antique slot machines in a 12-month period without obtaining from the department an annual license for selling the machines. The fee for the license is \$50 a year and must be retained by the department for administrative purposes. The department may not issue a license under this subsection to a licensed operator."

Renumber: subsequent subsections

EXHIBIT 2
DATE 3-5-91
HB 958

SUMMARY OF HOUSE BILL NO. 958

Prepared by the Gambling Control Division

February 28, 1991

SECTION 1 amends 2-15-2021, MCA, to require the Department of Justice and the Gaming Advisory Council to submit biennial, rather than annual, reports.

SECTION 2 revises the general definition section for the gambling laws (23-5-112, MCA). The following definitions are added:

- (1) "Card game tournament" -- a gambling activity involving participants who compete against each other in a series of live card games conducted over a designated period of time.
- (2) "Gift enterprise" -- a scheme for distributing property by chance among persons who have obtained chances to acquire the property by purchasing goods or services.
- (3) "Nonprofit organization" -- a nonprofit corporation or nonprofit charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, or service organization established for purposes other than to conduct a gambling activity.
- (4) "Promotional game of chance" -- a scheme for distributing property by chance among persons who have not paid or are not expected to pay consideration or who have not purchased or are not expected to purchase goods or services for a chance to obtain the property. A promotional game of chance is defined as a nongambling activity.

The section also revises the definition of "public gambling" to include gambling conducted in a place to which the public does not have access if the players are publicly solicited or the gambling activity is conducted in a predominately commercial manner. In addition, the definition of "raffle" is revised to require that winners be determined by a random selection process approved by rule of the Department of Justice.

SECTION 3, which amends 23-5-114, MCA, clarifies provisions concerning prohibited activities for Department of Justice employees and former employees. The section prohibits a designated employee from participating in a gambling activity regulated by the Department or from being employed by a licensed operator in any capacity involving the conduct of a gambling activity regulated by the Department.

SECTION 4 amends 23-5-123, MCA, to require penalties, fines, and forfeitures collected in a criminal proceeding for violation of a gambling statute or Department of Justice rule to be distributed in the same manner as penalties, fines, and forfeitures collected in justice or district court (i.e., in accordance with 3-10-601 and 46-18-235, MCA). In addition, two-thirds of the money collected through a civil or administrative proceeding must be distributed to the local government where the violation occurred; the remainder must be distributed to the Gambling Control Division.

SECTION 5 amends 23-5-136, MCA, to permit the Department of Justice to issue a warrant for distraint against an operator who fails to pay a civil penalty imposed by the Department or the video gambling machine or live bingo or keno tax. When issuing and executing a warrant, the Department must follow the same procedural requirements imposed on the Department of Revenue in 15-1-701 through 15-1-709, MCA. The section also provides that the local government portion of penalty payments is statutorily appropriated.

SECTION 6 amends 23-5-153, MCA, to define an antique slot machine as a device manufactured before January 1, 1965. The section also permits a person or entity who may legally possess an antique slot machine (i.e., private individual, public museum, or licensed manufacturer-distributor) to sell the machine to another person or entity who may legally possess one.

SECTION 7 amends 23-5-154, MCA, to make it a misdemeanor to solicit another person to participate in an illegal gambling enterprise.

SECTION 8 amends 23-5-156, MCA, to clarify that it is a criminal offense for a person in an activity involving gambling to obtain anything of value by misrepresentation, fraud, or the use of an illegal gambling device or enterprise.

SECTION 9 amends 23-5-158, MCA, to prohibit a minor from participating in all forms of gambling except noncommercial raffles. A minor who violates this section may be subject to a civil penalty not to exceed \$50 imposed by a justice, municipal, or city court or treated as an alleged youth in need of supervision in youth court.

SECTION 10 amends 23-5-162, MCA, to require the Department of Justice to revoke all gambling licenses and permits issued to a person convicted of a felony gambling offense.

SECTION 11 amends 23-5-176, MCA, to prohibit the Department of Justice from issuing a gambling license to an applicant who has been convicted of a felony offense or gambling-related misdemeanor within five years of application, is awaiting trial on charges of committing a felony offense, or is on probation, parole, or deferred prosecution for committing a felony offense. In addition, the Department may deny a license or permit to an applicant who has falsified a license or permit application. The section also provides that certain statutes relating to occupational licensing do not apply to issuance of a gambling license.

SECTION 12 amends 23-5-177, MCA, to permit the Department of Justice to issue a provisional operator's license to an applicant pending the Department's determination as to whether the applicant qualifies for licensure.

SECTION 13 is a new code section that makes it a misdemeanor for a gambling licensee to sell, assign, lease, or transfer a gambling license or permit.

SECTION 14 amends 23-5-306, MCA, to allow renewal of a live card game table permit for a "grandfathered" establishment if: (1) the person has continuously operated a live card game table on the premises since January 15, 1989; and (2) the majority of the natural persons holding a financial interest in the establishment remain the same as on January 15, 1989. A "grandfathered" establishment is an establishment that operated live card games on January 15, 1989, but did not have a liquor license.

SECTION 15 amends 23-5-308, MCA, to require a card dealer's license only if a person intends to deal cards in a game of panguingue or poker. The section also provides that submission by certified mail of a completed application and annual license fee constitutes a temporary license.

SECTION 16 amends 23-5-309, MCA, to permit a card game conducted as part of a tournament to be played on a table that does not have a live card game permit. The section also requires only a game of panguingue or poker to be played under the control of a licensed dealer.

SECTION 17 is a new code section providing for card game tournaments. Under this section, a licensed operator who has a permit for placing at least one live card game table on his premises may conduct up to 12 tournaments a year. Each tournament may last no more than 72 consecutive hours. An operator must obtain a permit from the Department of Justice

before conducting a tournament. The permit fee is \$10. Tournament prizes must be awarded after each game and may not exceed \$300 per game.

SECTION 18 amends 23-5-406, MCA, to clarify existing exemptions to the live bingo and keno permit fee and tax. In addition, an exemption from payment of the permit and tax is extended to: (1) fraternal and veterans' organizations granted an exemption under 26 U.S.C. 501(c)(8) or (c)(19); (2) nursing homes; (3) retirement homes; and (4) senior citizen centers.

SECTION 19 amends 23-5-409, MCA, to eliminate the tax of five percent on the net income from live bingo and keno games. Under this revision, an operator would be required to pay a tax of one percent of the gross proceeds from the games.

SECTION 20 amends 23-5-412, MCA, to authorize the use of way tickets in keno games, subject to the statutory bet and payout limits. Way tickets permit a player to select three or more numbers on a single card, place bets on various combinations of these numbers, and receive payouts on winning combinations.

SECTION 21 amends 23-5-413, MCA, to rearrange and clarify certain raffle provisions. It also prohibits a board of county commissioners from charging a permit fee or an investigative fee for a raffle conducted by a religious corporation sole or nonprofit organization. In addition, the section requires a person or organization, other than a religious corporation sole or nonprofit organization, to own in advance of ticket sales all prizes to be awarded as part of the raffle.

SECTION 22 amends 23-5-501, MCA, to clarify the definition of "sports pool" and add a definition of "value of a sports pool". Also, the definition of "nonprofit organization" is removed; this definition is relocated in the general definition section for the gambling laws (i.e., 23-5-112, MCA).

SECTION 23 amends 23-5-503, MCA, to clarify the rules for operating a sports pool.

SECTION 24 amends 23-5-603, MCA, to require video gambling machines to be placed in a room in which alcoholic beverages are sold or consumed and within sight and control of the operator or his or her employees.

SECTION 25 amends 23-5-611, MCA, to allow renewal of certain video keno and bingo machine permits for a "grandfathered" establishment if: (1) the person has continuously operated a machine on the premises since January 15, 1989; and (2) the majority of the natural persons holding a financial interest in the establishment remain the same as on January 15, 1989. A "grandfathered" establishment is an establishment that operated video keno or bingo machines on January 15, 1989, but did not have a liquor license. The section also removes the 10-machine limit on draw poker machines. The cap of 20 video gambling machines per premises is retained.

SECTION 26 amends 23-5-621, MCA, by striking the requirement that rules adopted by the Department of Justice on video gambling machine specifications substantially follow the statutory specifications in effect on September 30, 1989. This section also lists minimum standards for the machine specifications.

SECTION 27 amends 23-5-625, MCA, to prohibit a manufacturer-distributor from selling a video gambling machine to any person other than another manufacturer-distributor or an operator. It also provides that an operator or a lien holder (e.g., a financial institution) may sell machines subject to certain restrictions.

SECTION 28 amends 23-5-631, MCA, to provide that payments received by the Department of Justice from manufacturer-distributors for testing new video gambling machines are statutorily appropriated.

SECTION 29 amends 17-7-502, MCA, to statutorily appropriate to the Department of Justice: (1) the local government portion of penalty payments for deposit in the county or municipal treasury; and (2) the video gambling machine testing payments.

SECTION 30 amends 41-5-203, MCA, to provide that justice, municipal, and city courts have concurrent jurisdiction with the youth court over gambling violations alleged to have been committed by minors.

SECTION 31 is a new section that codifies the new sections of the bill in Title 23, chapter 5, parts 1 through 6. These parts contain the gambling laws that are under the Department of Justice's jurisdiction.

Testimony by David Shors of Helena before the House Judiciary Committee concerning antique slot machines.

Mr. Chairman and committee members:

Thank you for this opportunity to address you.

First, the Legislature should be commended for recognizing antique slot machines as wonderful collectibles. The present law allows people to display them in their homes, much like a piece of art or a fine piece of turn-of-the-century furniture.

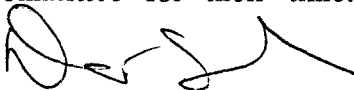
It also should be noted that Montana isn't alone in recognizing the value of these unusual collectibles. Almost every state - I think there are three exceptions - has an antique slot machine law which allows collectors to own and operate slots for their own enjoyment in non-gambling environments.

Montana's law makes it illegal to operate the machines as gambling devices. So the intent of the law is clear; it does not allow any infringement on the gambling realm. And collectors certainly don't have gambling in mind when they acquire a 1930s, 40s or 50s machine.

So the law is intended to allow collectors to acquire the machines and display them in their homes along with juke boxes, coin operated scales, gumball machines, pool tables and other antiques and collectibles.

But the present law and its expensive licensing provision make it difficult for anyone to legally buy or sell the machines. Although antique slots may cost \$1,000 to \$2,000 each, the profit to an antique dealer or autioneer is much less, probably in the \$200 to \$300 range. Also, few machines are bought and sold in the state. Occasionally you see them at antique shows or at auction sales. But I don't know of any dealer who makes more than one or two transactions a year.

I feel the provisions being forwarded by Mr. Robert J. Robinson and the Department of Justice, Gambling Control Division address these problems and would be supported by most antique dealers, coin-machine collectors and auctioneers in the state. I certainly support them, as they allow for an occasional sale without restrictive licensing. I'd like to thank Mr. Robinson, the Gambling Control Division and the members of the House Judiciary Committee for their time.



David Shors
Missouri River Chronicle Antiques
735 Breckenridge
Helena
442-7887

AMENDMENTS TO HOUSE BILL 958, Introduced Copy
Prepared by the Gaming Industry Association

1. Page 12, line 25.
Strike: "special revenue"
Insert: "general"
2. Page 12, line 25 through page 13, line 4.
Following: "fund" on page 12, line 25.
Strike: remainder of line 25 through "rules" on page 13, line 4.
3. Page 19, line 16.
Following: "offense"
Strike: "or a gambling-related misdemeanor"
4. Page 19, line 18.
Following: "application,"
Strike: "is awaiting trial on charges of committing a felony offense,"
5. Page 20, line 1.
Strike: subsection (3) in its entirety.
Renummer: subsequent subsections.
6. Page 20, line 4.
Following: "has"
Insert: "purposely and knowingly"
7. Page 22, line 10.
Following: "premises"
Strike: "after a finding under 16-4-401(2)"
8. Page 25, line 9.
Following: "game"
Insert: "of panguingue or poker"
9. Page 25, line 21.
Strike: "72"
Insert: "240"
10. Page 27, line 4.
Following: "Prizes"
Strike: "must be"
Following: "awarded"
Strike: remainder of subsection (7)
Insert: "during a tournament:
 (a) may exceed the prize limits provided for in 23-5-312;
 (b) are not limited to the total amount collected in entry or other fees; and
 (c) must be awarded according to tournament rules."

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. SB#270
 DATE 3-5-91 SPONSOR(S) Sen. Williams

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Jordan Morris	MA Co	270		✓
Bob L. Brown	Hamby Central Dist	SB 270		✓

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

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. HB# 958
 DATE 3-5-91 SPONSOR(S) Rep. Darko

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
LM MIKILSON + MARIE 495 SECRETARIAT CIRCLE BELLGRADE MT 59714	A&H NOVELTIES	SB 270		✓
Elmer Ackerman	A&H NOVELTIES	SB 270		✓
HARLEY WARNER	MT. ASSOC. OF CHURCHES	HB 958		✓
Bob Robinson	Sam's Content Disc	HB 958		✓
John Roberts	Sam's Content Disc	HB 958		✓
LARRY AKE	GAMING INDUSTRY ASSOC	HB 958		✓ w/AMP.
Gary Bennett	MCMOA	HB 958		✓

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