

## **MINUTES**

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

#### **COMMITTEE ON JUDICIARY**

**Call to Order:** By Chairman Bill Strizich, on March 28, 1991, at 2:15 p.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)  
Thomas Lee (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. 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.

#### **EXECUTIVE ACTION ON SB 270**

**Motion:** REP. BROWN MOVED SB 270 BE CONCURRED IN.

**Motion:** REP. BROWN moved to amend SB 270 with the amendments proposed by the sub-committee. EXHIBIT 1

#### **Discussion:**

John MacMaster explained the amendments to the committee from the reference sheet. EXHIBIT 1

REP. BROWN stated that in the last pages of the bill, section 8 through beginning of section 9 is all existing statute and the only amendment to it is on page 8 which exempts out amusement games. He stated that all involved parties are happy with the amended bill. He felt that his unhappiness is that the fairs have to live with the games that are on the list and they have to wait until the Legislature meets to put anything new on the list. He stated that it was their judgement that it was a much better system than the one they have to live with now. He urged the committee's support of the bill and the amendments.

REP. DARKO asked how the local law enforcement officials feel about the bill?

REP. BROWN stated that this morning he talked with Bob Patoravich, Butte Sheriff and President of Police Officer's Association, the Justice from Miles City and the Vice President of the Police Officer's Association, they didn't have any problem with this issue because it has always been done this way.

REP. BROOKE asked why the counties cannot charge the carnival owners for a permit?

Lois Menzies stated that amendment came from the carnival industry because they did not feel they should have to pay a permit fee to allow them into a county to set up their games.

REP. BROOKE asked if there is a permit fee at the present time for carnival games and fairs?

Mr. Robinson stated that it is currently optional for a county to charge a permit fee for the carnivals that come into their county.

REP. JOHNSON stated that any reference to crane games was removed from the bill except on page 5, line 11. He asked if that was supposed to be in the bill?

REP. BROWN stated that is just a description of how a crane should or should not work.

REP. JOHNSON asked REP. BROWN if he were looking at SB270 as drafted and as amended, which bill would be the less expansive of gambling?

REP. BROWN stated that in his judgement, neither one of the bills have anything to do with gambling. He felt that fairs are not supposed to be place where a person can gamble. SB 270 governs everything from cake walks to duck ponds.

REP. TOOLE asked if the Department of Justice govern the regulations of the games?

Lois Menzies stated that the Department of Justice regulates

gambling in the state of Montana.

REP. TOOLE asked Ms. Menzies if the state of Washington uses more rule making than actual statutes to regulate gambling?

Ms. Menzies stated that Washington state had chosen to adopt rules more than statutes. She stated that SB 270 is used to eliminate the role of the Department of Justice in regulating amusement games and putting it into statute.

REP. BROOKE inquired about the deleted language at the bottom of page 4 and the top of page 5. She asked if that is addressed anywhere else in the bill?

REP. BROWN stated that no one could figure out why it was in the bill in the first place.

REP. BECKER asked if the bill allows amusement games to be played in arcades?

REP. BROWN said the bill states it is legal to play amusement games in an arcade and it isn't labeled as gambling.

REP. STRIZICH stated that, in his district, amusement games are playing in arcades at the present time and have been for a long time.

Vote: Motion carried 14 to 6. EXHIBIT 2

Motion: REP. BROWN MOVED SB 270 BE CONCURRED IN AS AMENDED.

Motion: REP. TOOLE moved to amend SB 270 to reinstate the deleted language that keeps the Attorney General as the rule making authority and delete the individual games that are listed for putting into statute.

Discussion:

REP. BROWN stated that the point of the bill is that it has nothing to do with gambling and therefore, why should the Department of Justice have anything to say about the amusement games played by the children of the state. He felt the Justice Department would like to be out of the rule making authority for amusement games. He stated that there has been many complaints about not having enough investigators to cover this area for the Department of Justice, and this is one area where the Department of Justice can comfortably be taken out of that responsibility.

REP. GOULD said that it was the Carnival Industry people that agreed to the bill and felt it was the best way to do it so they will know exactly what the rules were and wouldn't be changed. He felt it was also the fact that the Department of Justice

wouldn't be involved any longer. Rep. Gould stated that the sub-committee unanimously agreed with them.

**REP. WHALEN** asked if the bill governs carnivals and fairs or does it also allow arcades?

**REP. BROWN** stated that the original bill governed arcades and that was part of the problem with the bill. He referred to the new section three at the bottom of page five, the permit section, says "before making an amusement game available for public play, amusement game being a non-gambling classic game etc... an operator not for profit or arcade shall obtain an appropriate permit as provided in subsections 2-4 from the Board of County Commissioners...etc. He felt that is all the bill does in relation to arcades.

**REP. MEASURE** asked **Ms. Menzies** if the arcade games that the state has now are illegal? **Ms. Menzies** stated that they are not illegal.

**REP. MEASURE** asked **Ms. Menzies** if the people running arcade games need a permit? **Ms. Menzies** stated that some jurisdictions do need a permit for video machines.

**REP. MEASURE** asked **Ms. Menzies** if the Department of Justice regulates those games at the present time? **Ms. Menzies** said that the Department of Justice does not regulate those games.

**REP. MEASURE** said that he doesn't see any reason to lay a foundation in the bill for something else. He felt that arcade establishment are already legal and he didn't see any reason to define them in the bill. He would like to keep the Department of Justice out of the process and he is concerned that the committee doesn't have enough information to make the distinction as to what a crane game is or what the prizes should be. He stated that he dislikes the bill.

**REP. DARKO** stated that the gambling bills have been in sub-committees for several weeks and the sub-committee meetings have been publicly announced so that anyone on this committee had an opportunity to attend those meetings because they were held other times besides floor times. She wondered what the purpose of a sub-committee was if the committee discusses everything the sub-committee went through. Rep. Darko said if the any individual wanted that opportunity they should have voiced their suggestions at the sub-committee meetings.

**REP. JOHNSON** stated that he agrees with Rep. Darko and he is not in favor of the bill anyway.

**Motion/Vote:** **REP. JOHNSON MOVED SB 270 BE TABLED.** Motion failed 7 to 13. **EXHIBIT 3**

Discussion:

REP. TOOLE stated that he would like to some clarification is needed in the bill in regard to regulating these games. He felt that the Attorney General should play a role in regulating the games and he wanted to keep the Department of Justice in the bill.

REP. WHALEN said that he supports the amendment because he doesn't feel comfortable about passing the bill with it covering more than just county fairs. He stated that he wouldn't have any problem with the bill at all, if it only consisted of county fairs. He felt there is a lot of money is being laundered through the arcades.

CHAIRMAN STRIZICH said that he didn't know that an amusement arcade is any more prone to money laundering than any other cash business, such as a laundry mat.

Vote: (Rep. Toole's motion) Motion carried 11 to 9. EXHIBIT 4

Discussion:

REP. BROWN stated that if the committee kills all of the gambling bills he felt that none of the committee members will return next session when public realizes the Attorney General's office is forced to enforce the statutes the way they are presently written because that it part of the problem in the carnival industry. He encouraged the committee to be prepared to justify to their local fair boards their votes on the bill.

REP. BOHARSKI asked Mr. Robinson if he is at the hearing to speak on behalf of the Attorney General? Mr. Robinson said, "Yes."

REP. BOHARSKI asked Mr. Robinson what the Attorney General's opinion is on being placed back into the bill to enforce the rules for amusement games in the carnival industry? Mr. Robinson stated that the Department of Justice worked with the carnival industry for a year to develop a set of guidelines of games they would be able to offer at their carnivals. Games of skill were approved but not games of chance or luck.

Mr. Robinson stated that the Department understood, through their discussions with the industry, that the Washington state regulations and rules would be used to lay out the games that would be legal.

REP. BOHARSKI asked Mr. Robinson if the Department only supports the bill as drafted with no amendments? Mr. Robinson said the Department of Justice suggested amendments that would take games of chance out of the bill.

REP. BROWN asked Mr. Robinson if he is saying that the Department didn't support the bill that came from the sub-committee? Mr.

Robinson stated that the Department of Justice supports the bill as drafted or as amended.

REP. BOHARSKI said he felt that this issue is best solved by laying it out in statute in plain, clear, simple language for all carnival owners to follow. He felt that the Department of Justice could be put in the bill as the administering agency rather than the regulator. Rep. Boharski felt that Rep. Toole's amendment should be reconsidered and the committee could easily put new language in the bill that says the Attorney General will have the power to regulate the use of amusement games but he felt they should be put into statute.

Motion: REP. BOHARSKI RECONSIDER ACTION ON THE VOTE FOR REP. TOOLE'S AMENDMENT.

Discussion:

REP. WHALEN stated that he opposes the motion. He felt that it is presumed that the only rules the Department would consider making are the ones that have to do with the things placed in the bill in sub-committee. He felt there were a lot of other rules that could be adopted by the Department of Justice including the concerns about combining establishments and doing things at the arcades that people sometimes don't anticipate.

Vote: Motion carried 13 to 6. EXHIBIT 5

Vote: (Toole amendment) Motion fails.

Motion: REP. WHALEN moved to amend SB 270 by saying that none of the places that have arcades with these types of amusement games can be combined with an establishment where gambling is taking place.

Discussion:

REP. BROWN inquired as to what would one do with the Four Corners Bar, for example, that is the only place for community activities, outside the church, is in that local establishment, which is a bar, and where food is served, video games, pool tables and it is the only place in town to go. REP. BROWN asked REP. WHALEN if he wants his amendment to prevent that from happening? REP. WHALEN stated that the committee has to look at these gambling bills without weighing their decision on looking at good scenarios and bad scenarios.

REP. BOHARSKI suggested that the committee add to the definition of arcade the words "doesn't serve alcohol beverages".

REP. WHALEN withdrew his motion to amend SB 270.

Motion/Vote: REP. BROWN MOVED SB 270 BE CONCURRED IN AS AMENDED.  
Motion carried 15 to 5. EXHIBIT 6

EXECUTIVE ACTION ON HB 673

Motion: REP. BROWN MOVED HB 673 DO PASS AS AMENDED. EXHIBIT 7

Motion: REP. DARKO moved to amend HB 673 with the amendments proposed by the Gambling Control Division. EXHIBIT 8

Discussion:

REP. DARKO stated that these amendments would coordinate HB 958 into HB 673 which are not in the gray bill.

Lois Menzies stated that the first amendment which amends 23-5-156 clarifies that a person who, when in an activity involving gambling, does not win over \$300 in value that person is convicted of a misdemeanor if more than \$300 is a felony. She stated that the second amendment is a new section, 23-5-110 prohibits the licensing of a gambling operating from selling or transferring their license and if it occurs that person is charged with a misdemeanor. She stated that the third amendment amends 23-5-631.

Vote: Motion carried.

Motion: REP. BROWN MOVED HB 673 DO PASS AS AMENDED.

Discussion:

John MacMaster stated that the sub-committee decided to incorporate SB 53 into HB 673 which allows shake-a-day for a drink or music. On page 13, line 19, was amended by the sub-committee to include shake-a-day into the bill 20 it allows rolling dice for chance to obtain a drink or music.

Motion/Vote: REP. BROWN moved to amend HB 673 by allowing "casino night" to be added into the bill. Motion failed 8 to 10.  
EXHIBIT 9

Motion/Vote: REP. BROWN moved to amend HB 673 by allowing existing games that are legal to be added into the bill. Motion failed.

Motion/Vote: REP. TOOLE moved to amend HB 673 by striking the increase to live poker and reinstate present law. Motion carried 17 to 2. EXHIBIT 10

Motion/Vote: REP. TOOLE moved to amend HB 673 by striking the increase to poker machines and reinstate present law. Motion carried 15 to 4. EXHIBIT 11

Motion/Vote: REP. BROWN moved to amend HB 673 by raising live keno to \$300. Motion carried 14 to 6. EXHIBIT 12

Motion: REP. TOOLE moved to amend HB 673 by lowering the bill changing machines from \$20.00 to \$4.00 and \$5.00.

Motion/Vote: REP. BOHARSKI MADE A SUBSTITUTE MOTION to amend HB 673 by removing bill changing machines from the bill. Motion failed 16 to 3 with Rep's: Boharski, Lee and Measure voting yes.

Vote: Motion carried 16 to 3 with Rep's: Brown, Gould, and Nelson voting no.

Motion: REP. MEASURE MOVED HB 673 DO NOT PASS AS AMENDED.

Discussion:

REP. MEASURE felt that taking out all the expansion provisions of gambling is an admirable effort by Rep. Toole, but he was not satisfied with the bill. Rep. Measure stated that the bill expands gambling greatly and it enables gambling to continue to expand. He felt the tone of the session is that people are against gambling. He stated that the issue of gambling is one that will not be changed with any further discussion and he felt that the bill should now be voted on.

REP. BROWN stated that he didn't know what other amendments will be moved toward the bill. He felt that will Rep. Toole's amendments and his own amendments, the bill does not expand gambling. He stated there isn't anything left in the bill except a lot of clarification. Rep. Brown stated that this bill is needed to correct mistakes made in previous legislation that dealt with gambling.

REP. WHALEN stated that there are two gambling bills that are being worked on in the committee, HB 673 and HB 958. He felt that one of the bills will come out of the committee one way or another. Rep. Whalen said that the gambling bill that does come out of this committee has to go through a lot more scrutiny on the House floor and, if passed there, on to the Senate floor.

REP. BROOKE stated she is going to vote in favor of the do not pass motion. She stated that she appreciates the fact that HB 673 has been worked on by the sub-committee, but she felt like the committee was acting as the sub-committee. Rep. Brooke stated that she is against this bill because she is not in favor of expanding gambling and more discussion will not change her mind.

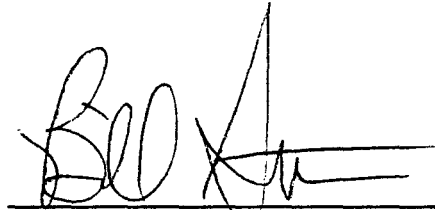


REP. BECKER stated that there is a lot of problems in current law and if the bill is not passed these problems will not be taken care of.

Vote: Motion carried 12 to 7. EXHIBIT 13

ADJOURNMENT

Adjournment: 8:02 p.m.



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

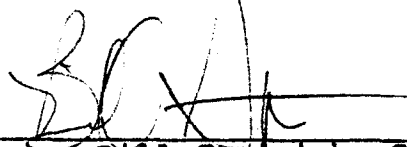
BS/jmd

HOUSE STANDING COMMITTEE REPORT

April 1, 1991

Page 1 of 8

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 270 (third reading copy -- blue) be concurred in as amended .

Signed:   
Bill Strizich, Chairman

CARRIED BY: Dave Brown

And, that such amendments read:

1. Page 1, lines 13 through 23.

Strike: lines 13 through 23 in their entirety

2. Page 2, line 4 through page 3, line 10.

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

3. Page 3, line 16.

Strike: "(6) (A)"

Insert: "(5) (a)"

4. Page 4, line 7.

Following: "business"

Insert: "business,"

5. Page 4, line 11.

Strike: "A CRANE"

Insert: "an amusement"

6. Page 4, lines 14 and 16.

Following: "A"

Insert: "wholesale"

7. Page 4, lines 21 and 22.

Strike: "THE AMUSEMENT" on line 21 through "4]" on line 22

Insert: "The sale of a right to participate, the determination of winners, and the distribution of prizes all occur in the presence of all players"

8. Page 4, line 25 through page 5, line 1.

Strike: "The fee" on page 4, line 25 through "\$2" on page 5, line

1

Insert: "The player pays cash for the right to play the game"

9. Page 5, line 2.

Following: "awarded"

Insert: ", and only a prize is awarded. Prizes must be displayed and may not be repurchased"

10. Page 5, line 9.

Strike: "during the play"

11. Page 5, line 10.

Strike: "by any person"

12. Page 6, line 2

Following: "MAY"

Insert: "not"

13. Page 6, line 11.

Strike: "CRANE"

Insert: "amusement"

14. Page 6, line 14.

Strike: "A CRANE"

Insert: "an amusement"

15. Page 6, lines 20 through 23.

Strike: section 4 in its entirety

Insert: "NEW SECTION. Section 4. Amusement games allowed. (1) Crane games, as defined in [section 1], and the games described in subsection (2) may be made available for public play.

(2) (a) Fish pond (duck pond). The player catches a fish or other object floating in a pond of water by using a pole, hand, net, or string. All fish or objects are marked on the bottom, indicating the size of prize the player wins. The player is awarded a prize each time, and the player must be allowed to continue playing until a prize is won.

(b) Hoop or ring toss. The player tosses a hoop or ring over a target that must consist of bottles, pegs, blocks, or prizes. The operator shall specifically advise the player as to the degree that the hoop or ring must go over the target. All hoops of the same color used at an individual stand must be the same size. All targets used at an individual booth must be the same size, or the operator shall advise the player by posting signs or using color codes denoting the different sizes.

(c) Dart games. The target area for all dart games must be of a material capable of being penetrated and of retaining a metal tip dart. The target area must be in the rear of the stand and must be at least 3 feet but not more than 15 feet from the foul line. A target must be

stationary at all times.

(i) Balloon (poparoo) (balloon smash). The targets are inflated balloons. The player throws one or more darts to burst a predetermined number of balloons. If the predetermined number of balloons are burst by the darts, the player receives the prize indicated.

(ii) Dart throw. The targets are various sizes and shapes located on the target area. The player throws darts individually at the target. A dart must stick in a predetermined target to win the prize as designated.

(iii) Tic tac toe dart. The target is a tic tac toe board located in the target area. The player throws darts at the target and wins a designated prize when the thrown darts line up in a row in the target. The darts may line up vertically, horizontally, or diagonally to win.

(iv) Add-um-up darts. The target consists of numbered squares located in the target area. Prizes are awarded based on the total score obtained by the player by throwing and sticking the darts in the numbered squares. A dart that sticks on a line must be thrown again. The player may add up the score of the darts thrown.

(d) Ball tosses. In all ball toss games, the balls used at a specific stand must be of the same weight and size. Targets must be of the same weight and size, or the operator shall color code the targets and advise the player of the difference in targets by posting a sign or providing a duplicate of the target showing the limitations or restrictions. The sign or duplicate target must be readily visible to the player.

(i) Milk bottle toss. The player tosses or throws balls at simulated milk bottles. The player wins by either tipping over or knocking bottles off the raised platform as designated by the operator. The bottles may be constructed of wood, metal, or plastic or a combination of the three. Operators may vary the number of bottles and balls used in each game. Floating or loose weights in bottles are not allowed. The weight of individual bottles may not exceed 7 1/2 pounds.

(ii) Milk can (Mexican hat) (cone). The player tosses a ball into the opening of a milk can, into a fiberglass Mexican hat turned upside down, or through a cone to win.

(iii) Football toss (tire toss). The player tosses or throws a football through a stationary tire or hoop to win.

(iv) Basketball toss/throw. The player tosses or throws a basketball through a hoop to win.

(v) Bushel baskets. The player tosses balls into a bushel basket mounted on a stationary backdrop at a fixed angle. The balls must stay in the basket to win. Rim shots are allowed, except the operator may designate the top 6

inches of the basket rim by color and disallow balls striking this area as winning tosses.

(vi) Cat-ball-toss (star/diamond toss). The player tosses balls into a simulated cat's mouth or a round, diamond, or star-shaped hole to win.

(vii) Ping pong toss. The player tosses ping pong balls into dishes, saucers, cups, or ashtrays floating in water. A predetermined number of balls must remain in the dishes, saucers, cups, or ashtrays for the player to win. The dishes, saucers, cups, or ashtrays must have water covering the bottom of the surface that is facing up.

(viii) Fish bowl game. The player tosses ping pong balls into a water-filled fish bowl to win.

(ix) Volley ball toss (soccer ball). The player tosses a volley or soccer ball into a keg-type container mounted on a stationary backdrop at a fixed angle. The ball must stay in the keg to win a prize. Rim shots are authorized as stated in subsection (2)(d)(iv) for bushel baskets.

(x) Goblet ball (whiffle ball). The player tosses a whiffle ball into a target area of glass or plastic goblets. Located in the target area are colored goblets that determine the type of prize the player wins. At least 33% of the goblets in the target area must be winners. The ball must stay in the goblet to win a prize.

(xi) Break the plate/bottle. The player tosses or throws a ball at a plate, phonograph record, or bottle. The type of prize won is determined by the number of targets broken by the player.

(xii) Punk rack. The targets for this game are rows of dolls or cats on a ledge at the rear of the stand. The dolls or cats must be filled with sawdust, styrofoam, cotton, or other like material that provides a firm base for the ball to strike. The hair protruding from the side of the dolls or cats may not exceed 3 inches. The prize is determined by how many dolls or cats the player knocks over or off the ledge, as posted by the operator.

(xiii) Teeth game. The target consists of a large face with wooden teeth. The prize is determined by how many teeth the player knocks down by throwing a ball.

(xiv) Toilet game (doniker). To win, the player tosses or throws a ball or other object through a toilet seat located at the rear of the stand.

(xv) Coke roll. The player rolls a ball down an alley with the object of knocking over two coke bottles standing at the end of the alley. The player must tip over both bottles to win. Bottles must be placed on predetermined spots painted on the surface of the alley.

(xvi) Rolldown. The player rolls balls down an alley with the object of putting the balls in numbered slots at

the end of the alley. The scores represented by the balls in each numbered slot are added up at the conclusion of the game. Scores above or below a predetermined score win. The alley surface must be smooth and free from defects at all times.

(xvii) Fascination (I got it). Fascination is a group game that involves competition among the players. The target area consists of 25 holes, and the player tosses or rolls a ball into one of the holes. The object of the game is to get five balls in a row either vertically, horizontally, or diagonally. The first player to accomplish this is the winner. Prize size is determined by the number of players participating in each game.

(xviii) Cake walk. The players walk on a predetermined route with designated spots, and when the operator stops the walk, the player on a predetermined spot wins a prize.

(xix) Batter-up. The player uses a whiffle ball bat to swing and strike whiffle balls that are pitched at medium speed from a pitching machine. The player wins when he hits a ball into the home run shelf. The home run shelf is located at the back of the batting cage approximately 15 feet from the player.

(xx) Sky bowling. Two bowling pins are set on predetermined painted spots on a shelf. A ball is attached to a chain suspended from a stationary support at least 6 inches to the right or left of the bowling pins. The object is to swing the ball, miss the pins with the ball as it goes forward, and knock the pins over as the ball returns.

(xxi) Clown rolldown. A ball is tossed through the open mouth of a moving clown or animal head. The ball then rolls down a chute to numbered slots at the rear of the clown or animal head. The scores represented by the balls in each numbered slot are added up at the conclusion of the game. Prizes are awarded on the points achieved.

(xxii) Skee ball. The player rolls a ball up the mechanical bowling alley into targets. A computer adds up the scores, and the predetermined scores win.

(xxiii) Speedball radar game. The player gets four balls and throws three balls through radar to establish speeds and to estimate at what speed the fourth ball will pass through the radar. The player wins a prize if he accurately estimates the speed of the fourth ball. The radar must be mounted and stationary.

(e) Shooting games. These games are conducted by the player using a weapon of some type to shoot at a target in the rear of the stand. The safety requirements of local city or county ordinances must be observed by the operator and player. The target may be stationary or mobile.

(i) Short range (shooting gallery). In this game, the

player is given four rounds to shoot at a spot target 1/4 inch or less in diameter. The player wins when the spot target is completely shot out, or the player is given five rounds to shoot one round each at five triangular, round, or 1/2-inch square targets. The prize is determined by the number of targets struck by the player, or the player is given five rounds to shoot one round each at five triangular, round, or 1/2-inch square targets. Within each target is a bull's eye. The player must hit the bull's eye without touching the outer surface of the target. The prize is determined by the number of bull's eyes correctly hit.

(ii) Shoot-out-the-star (machine gun). The player, using an automatic air pellet gun, is given 100 pellets to shoot at a star-shaped target. The player must shoot out all of the target to win. The star cannot be more than 1 1/4 inches from point-to-point.

(iii) Water racer. This group game involves a competition, with the player winning a prize based on the number of players competing. The player, using a water pistol, shoots the water into a target. The water that strikes the target causes a balloon to inflate or advances an object to ring a bell. The first player who bursts the balloon or rings the bell is the winner.

(iv) Rapid fire. This group game involves competition similar to the water racer game described in subsection (2)(e)(iii). The player uses an electronic pistol to shoot at a target. Hits on the target give the player a score. The first player to reach a predetermined score is the winner.

(v) Cork gallery. The player uses a cork gun or similar device to propel objects, including but not limited to corks, suction cup darts, or styrofoam balls, to shoot at targets located on a shelf or at a bull's eye target. The player must hit the bull's eye or knock the target over or off the shelf to win a prize. The prize is determined by the target knocked over or off the shelf, by the number of targets knocked over or off the shelf, or by the player accomplishing other tasks, as stated in the posted rules. When suction cup darts or other darts are used and fail to stay on or in the target, the player must shoot the dart again. The base of each target must be uniform, front and rear.

(vi) Boomball. The player uses a cannon with compressed air to propel balls into a target area. The targets have varied point value. If the ball remains in the target, a computer adds up the score. Prizes are awarded based on the points achieved.

(f) Coin pitchers.

(i) Spot pitch (lucky strike). The player pitches a

coin at colored spots located on a table in the center of the stand. The coin must touch or stay inside of a spot to win a prize.

(ii) Plate pitch. The player pitches a coin onto a glass plate to win a prize as designated.

(iii) Glass pitch (bowl). The player pitches a coin into or onto dishes or glasses. If the coin remains in a top target glass item, then the player wins that item.

(g) Miscellaneous games.

(i) Skill chute (bulldozer) (penny fall). The player inserts a coin or token into a chute, aiming the coin or token so that it will fall in front of a continuous sweeper (bulldozer). If the coin or token is aimed correctly, the sweeper (bulldozer) will push additional tokens or prizes into a hole or chute that sends them to the player. Tokens are exchanged for prizes. If there is a hidden ledge, tip, or similar obstruction that inhibits the passage of tokens or prizes into the hole or chute that sends them to the player, the operator shall post a sign to advise the players.

(ii) Tip-em-up bottle. The player is provided with a pole and a string that has a hoop or ring attached at the end. The player, using the pole with a ring, must raise a bottle lying on its side to an upright position to win.

(iii) Hi-striker. The player, using a wooden maul, must strike a lever target that causes a metal weight to rise on a guideline or track and ring a bell. The player must ring the bell a predetermined number of times to win a prize.

(iv) Rope ladder. The player must climb up a rope ladder, which is anchored at both ends by a swivel, and ring a bell or buzzer to win a prize.

(v) Whac-a-mole. This is a group game that has a target surface with 5 holes through which animated moles pop up and down at random. The player must hit as many moles as possible with a mallet. The first player to hit a predetermined number of moles wins.

(vi) Dip bowling game. The player rolls a bowling-type ball over a hump in the track. If the ball stays on the back side of the hump, the player wins.

(vii) Horserace derby. This is a group game in which a player advances his horse by shooting or rolling a ball in the target area. The faster and more skillfully the player shoots or rolls his ball, the faster his horse will run. The first horse to cross the finish line wins.

(viii) Shuffleboard. The player pushes a puck down a shuffleboard alley to knock over poly pins at the end of an alley. The player wins by knocking down all the pins.

(ix) Bean bag. The player tosses or throws a bean bag



or a simulated bean bag at cans, bottles, or other objects on a raised platform. The player wins a prize when he either knocks the object off the raised platform or tips the target over.

(x) Soccer kick. The player kicks a soccer ball through a hole in the target area to win.

(xi) Frog game. A plastic frog or similar object sits on a small end of a teeter-totter. The opposite end of the teeter-totter is struck with a mallet, causing the frog to fly off the teeter-totter. If the frog lands in a pail or similar receptacle, the player wins a prize.

(xii) Cover the spot. The object of this game is for the player to drop five circular discs onto a circular spot, completely covering the spot. The diameter of each of the discs used to cover the spot must be a minimum of 64% of the diameter of the spot to be covered. The spot to be covered must be painted or drawn on a permanent, solid material, such as metal or wood, or may be a lighted circle. The spot and each disc must have a uniform diameter.

(xiii) Pocket billiards. Using a regulation pocket billiard table, a player must run a consecutive number of balls to win a prize. The number of balls is set by the operator."

*Jeannie Henne*

HOUSE STANDING COMMITTEE REPORT

*4/1/91*

April 1, 1991

Page 1 of 14

Mr. Speaker: We, the committee on Judiciary report that House Bill 673 (first reading copy -- white) do not pass as amended.

Signed: *Bill Strizich*  
Bill Strizich, Chairman

And, that such amendments read:

1. Title, lines 10 and 11.

Strike: "ELIMINATING THE LIVE BINGO AND KENO TAX AND"

2. Title, line 13.

Strike: "THE LIVE CARD GAME OF BLACKJACK,"

3. Title, line 15.

Following: "PLACES,"

Insert: "AND"

Strike: ", AND CRANE GAMES"

4. Title.

Following: line 16

Insert: "2-15-2021,"

5. Title, line 18.

Following: "23-5-154,"

Insert: "23-5-156,"

6. Title, line 19.

Strike: "23-5-306" through "23-5-311,"

7. Title, line 20.

Following: "23-5-407,"

Insert: "23-5-409,"

8. Title, line 22.

Following: "23-5-625,"

Insert: "AND"

Strike: "AND 41-5-203,"

9. Title, lines 23 and 24.

Strike: "23-5-409" on line 23

Insert: "23-5-153"

Strike: "AND A TERMINATION DATE"

10. Page 2, line 3.

Strike: "30" through "63"

Insert: "27 and 38"

11. Page 2, line 4

Strike: "blackjack,"

Following: "pools"

Strike: ", "

Insert: "and"

12. Page 2, lines 5 and 6.

Strike: ", and crane games"

13. Page 2, line 11 through page 3, line 18.

Strike: subsection (1) of the STATEMENT OF INTENT in its entirety

Renumber: subsequent subsections

14. Page 4, line 3.

Following: "pools"

Insert: ", including but not limited to those commonly known as or similar to baseball blackout, pro football, total runs pool, baseball progressive pool, home run contest, pick the final four, 39 (or other number) points pool, 28 (or other number) club, NFL win pool, four-way multiple pool, high school and college tournament pools, and golf board"

15. Page 4, lines 17 through 24.

Strike: lines 17 through 24 in their entirety

16. Page 5, line 2 through page 10, line 10.

Strike: section 1 in its entirety

Renumber: subsequent sections

17. Page 10.

Following: line 24

Insert: "(3) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected by the department and that randomly selects the numbers."

Renumber: subsequent subsections

18. Page 11, line 7.

Following: "equipment"

Insert: "using authorized equipment"

19. Page 12, lines 3 and 4.

Strike: The on line 3 through end of line 4

20. Page 12.

Following: line 12

Insert: "(13) "Gift enterprise" means a scheme, by whatever name known, for the disposal or distribution of property by chance among persons who have obtained chances to acquire the property or a portion of it by purchasing goods or services. The term does not include:

(a) lotteries authorized under part 10 of this chapter;

(b) cash or merchandise attendance prizes or premiums that the county fair commissioners of agricultural fairs and rodeo associations may give away at public drawings at fairs and rodeos; or

(c) a promotional game of chance."

Renumber: subsequent subsections

21. Page 13, line 19.

Following: "including"

Insert: "shake-a-day or"

22. Page 14, line 5.

Following: "~~select~~"

Insert: "using authorized equipment"

23. Page 16, lines 6 and 7.

Strike: "and approved by the department"

Following: "." on line 7

Insert: "The premises must:

(a) be a structure or facility that is clearly defined by walls extending from floor to ceiling;

(b) have a unique address assigned by the local government in whose jurisdiction the premises is located;

(c) have a public external entrance leading to a street or other common area; and

(d) if it shares a common wall with another premises for which an operator's license has been issued, contain a common wall that is permanently installed and opaque and that extends from floor to ceiling. The two premises sharing the common wall may not be connected by an internal entrance through which public access is allowed."

24. Page 16.

Following: line 7

Insert: "(29) "Promotional game of chance" means a scheme, known by any name, for the disposal or distribution of property by chance among persons who have not paid and who are not expected to pay any consideration and who are not expected to purchase any goods or services for a chance to obtain the

property or a portion of the property."  
Renumber: subsequent subsections

25. Page 16, line 10.  
Following: ";"  
Strike: "or"

26. Page 16, line 14.  
Strike: "."  
Insert: "; or  
(c) a place, building, or conveyance to which the public  
does not have access if players are publicly solicited or  
the gambling activity is conducted in a predominantly  
commercial manner."

27. Page 17, line 11 through page 24, line 21.  
Strike: section 3 in its entirety  
Renumber: subsequent sections

28. Page 26, line 1.  
Strike: "(1)(b)"  
Insert: "(1)(c)"

29. Page 27, line 6.  
Strike: "establishment"  
Insert: "business"  
Strike: "gambling"

30. Page 27, line 7.  
Following: "activity"  
Insert: "under the license or permit"

31. Page 27, line 9.  
Strike: "establishment"  
Insert: "business"  
Strike: "and"

32. Page 27, line 10.  
Strike: "."  
Insert: "; and

(v) any other relevant information that is obtained in  
the application or tax reporting process or as a result of  
other department operations and that may be disclosed only  
to a federal, state, city, county, or tribal criminal  
justice agency, the department of revenue, and the federal  
internal revenue service."

33. Page 28, line 2.  
Strike: "special revenue"  
Insert: "general"

34. Page 28, lines 2 through 6.  
Strike: "account" on line 2 through "rules" on line 6

35. Page 30, line 17.  
Following: "Possession"  
Insert: "and use"

36. Page 30, line 18.  
Strike: "prohibited --"

37. Page 30, line 19.  
Strike: "exceptions"  
Strike: "Except as provided in 23-5-153 and"

38. Page 30, line 20.  
Strike: line 20  
Insert: "It"

39. Page 30, line 23.  
Following: "(a)"  
Insert: "use in a gambling activity that is not legal or"

40. Page 30, line 23 through page 31, line 2.  
Strike: "or under" on page 30, line 23 through "control" on page 31, line 2  
Insert: "with intent to use in a gambling activity that is not legal"

41. Page 31, lines 4 and 5.  
Strike: "apply to a public officer or to a person coming into"  
Insert: "prohibit mere"

42. Page 31, lines 6 through 8.  
Strike: "in or" on line 6 through "law" on line 8  
Insert: ", except that an illegal gambling device may not be purposely or knowingly possessed in a premises licensed or capable of being licensed for any type of gambling unless it has been rendered inoperable for any type of illegal gambling. Violation of this subsection is a misdemeanor"

43. Page 31, lines 18 through 21.  
Strike: subsection (4) in its entirety

44. Page 32.

Following: line 4

Insert: "Section 8. Section 23-5-156, MCA, is amended to read:

"23-5-156. Obtaining anything of value by fraud or operation of illegal gambling device or enterprise. (1) A person who ~~by gambling in an activity involving gambling~~ obtains money, property, or anything of value that does not exceed \$300 in value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a misdemeanor and is punishable as provided in 23-5-161.

(2) A person who ~~by gambling in an activity involving gambling~~ obtains money, property, or anything of value that exceeds \$300 in value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a felony and is punishable as provided in 23-5-162."

45. Page 32, line 7.

Strike: "(3)"

Insert: "(2)"

46. Page 32, lines 13 through 22.

Strike: subsection (2) in its entirety

Renumber: subsequent subsection

47. Page 34, lines 9 and 10.

Strike: "or a gambling-related misdemeanor"

48. Page 34, lines 11 and 12.

Strike: ", is awaiting trial on charges of committing a felony offense,"

49. Page 34, line 12.

Following: "probation"

Strike: "1"

Insert: "or"

50. Page 34, lines 12 and 13.

Strike: ", or deferred prosecution"

51. Page 35, line 15.

Strike: "Regardless"

Insert: "Except as provided in subsection (4), regardless"

52. Page 35, line 21.

Following: line 20

Insert: "(4) The department may issue and annually renew more than one operator's license for a premises if, at the time of the application for an operator's license or license

renewal, the majority of natural persons holding a financial interest in the business on the premises remains the same as on January 1, 1991, except that the spouse or child of a person granted an operator's license or license renewal may acquire controlling financial interest in the business, and if the applicant was, on January 1, 1991:

(a) licensed under this section to operate in a premises not meeting the definition of premises in 23-5-112; or

(b) operating a business, on premises not meeting the definition of premises in 23-5-112, that sold alcoholic beverages for consumption on the premises and had filed with the department on or before January 1, 1991, an application for an operator's license for that business."

Renumber: subsequent subsections

53. Page 37, line 15.

Strike: "under 16-4-401(2)"

Insert: "to sell alcoholic beverages for consumption on the premises,"

54. Page 38, line 3.

Strike: "the person has continuously operated"

55. Page 38, line 4.

Following: "table"

Insert: "has been continuously operated"

Following: "1989"

Insert: ", except that a live card game table need not have been continuously operated on the premises for a period, not exceeding 5 years, during which the persons referred to in subsection (1)(b)(iv)(B) held a security interest in the premises"

56. Page 38, line 5.

Following: "persons"

Insert: "who are owners"

57. Page 38, line 19.

Strike: "15 and 31"

Insert: "14 and 20"

58. Page 39, line 24 through page 42, line 17.

Strike: section 17 in its entirety

Renumber: subsequent sections

59. Page 42, line 20.

Strike: "31"

Insert: "20"



60. Page 43, line 16 through page 44, line 13.

Strike: section 19 in its entirety

Renumber: subsequent sections

61. Page 44, line 16.

Strike: "31"

Insert: "20"

62. Page 44, line 24 through page 45, line 20.

Strike: sections 21 and 22 in their entirety

Renumber: subsequent sections

63. Page 45, line 23.

Strike: "31"

Insert: "20"

64. Page 46, line 12.

Strike: "blackjack,"

Following: "panguingue"

Strike: "1"

65. Page 46, line 15 through page 50, line 3.

Strike: sections 25 through 30 in their entirety

Renumber: subsequent sections

66. Page 50, line 7.

Strike: "six"

Insert: "12"

67. Page 50, line 9.

Strike: "10"

Insert: "5"

68. Page 50, line 22.

Strike: "six-tournament"

Insert: "12-tournament"

69. Page 51, line 17.

Following: "(7)"

Insert: "The face value of the chips used does not govern the  
value of the pot awarded at the end of the tournament."

70. Page 51, lines 18 and 19.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

71. Page 54, line 16.

Strike: "15"

Insert: "14"

72. Page 54, line 17.

Following: "or"

Insert: "bingo or"

73. Page 54, line 20 through page 55, line 3.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

74. Page 55.

Following: line 10

Insert: "Section 23. Section 23-5-409, MCA, is amended to read:

"23-5-409. Bingo and keno tax -- records -- distribution -- statement and payment. (1) A licensee who has received a permit to operate bingo or keno games shall pay to the department a tax of ~~5%~~ 1% of the ~~net income~~ gross proceeds from the operation of each live bingo and keno game operated on his premises. ~~For purposes of this section, "net income" means gross proceeds, as defined in 23-5-112, minus the cost of equipment, supplies, personnel, and advertising allocated to the games. If in any year 5% of net income does not equal 1% of gross proceeds, then the licensee shall pay a tax of 1% of gross proceeds.~~

(2) A licensee shall keep a record of gross proceeds and ~~net income~~ in the form the department requires. At all times during the business hours of the licensee the records must be available for inspection by the department.

(3) A licensee shall annually complete and deliver to the department a statement showing the total gross proceeds for each live keno or bingo game operated by him and the total amount due as live bingo or keno tax for the preceding year. This statement must contain any other relevant information required by the department.

(4) The department shall forward the tax collected under subsection (3) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed game is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from taxes on live bingo or keno games located in incorporated cities and towns within the county. The tax collected under subsection (3) is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury."

75. Page 55, line 18.

Strike: "\$800"

Insert: "\$300"

76. Page 61, line 15.

Following: "\$500."

Insert: "Chances for a series of events may be purchased all at once prior to the occurrence of the first event."

77. Page 65, lines 7 and 8.

Strike: "as determined" on line 7 through "license" on line 8

78. Page 65, line 9.

Strike: "sight and"

79. Page 65, line 10.

Strike: "or his employees"

80. Page 65, line 15.

Strike: "48"

Insert: "38"

81. Page 65, line 19.

Following: "machine"

Insert: "for a video keno or bingo machine and \$100 a game for a video draw poker machine"

82. Page 66, line 3.

Following: "part."

Insert: "A licensed operator may deduct from gross machine income an amount equal to money stolen from machines or money stolen after the money was taken out of machines if the stolen amount is not repaid by insurance or otherwise and a law enforcement agency investigated the theft."

83. Page 68, line 7.

Following: "persons"

Insert: "who are owners and"

84. Page 68, line 9.

Following: "same"

Insert: "and the activity for which the permit is to be renewed has been continuously carried on at the premises since January 15, 1989, except that the activity need not have been continuously carried on for a period, not exceeding 5 5 years, during which such persons held a security interest in the business"

85. Page 69, line 9.

Strike: "15"

Insert: "14"

86. Page 70, line 24.

Strike: "\$20"

Insert: "\$5"

87. Page 71.

Following: line 23

Insert: "(3) A video gambling machine for which there was a permit on January 1, 1991, is not subject to this section as amended on [the effective date of the House Bill No. 673 amendment to this section] or to rules implementing this section and adopted after that date. Such machines are subject to this section as it read on January 1, 1991, and to rules implementing this section and in effect on that date."

88. Page 74, line 12.

Following: "costs."

Insert: "Payments received by the department under this subsection are statutorily appropriated to the department, as provided in 17-7-502, to pay the costs of the examination and to refund overpayments."

89. Page 76, line 16.

Following: "~~23-5-409,~~"

Insert: "23-5-409,"

90. Page 76.

Following: line 16

Insert: "23-5-631,"

91. Page 77, line 11 through page 79, line 16.

Strike: sections 50 and 51 in their entirety

Renumber: subsequent sections

92. Page 80, line 15.

Page 82, lines 4 and 11

Strike: "53 through 57"

Insert: "41 through 45"

93. Page 82, line 13 through page 86, line 18.

Strike: sections 58 through 67 in their entirety

Insert: "NEW SECTION. Section 46. Shaking dice for a drink or music or in shake-a-day game. It is legal for a customer in an establishment licensed for the sale of alcoholic beverages to be consumed on the premises to:

(1) shake or choose one or more dice, alone or with an owner or employee of the establishment, to determine whether the customer or the establishment shall pay for the customer's drink or to determine whether the customer or the establishment shall immediately pay a predetermined amount of money, not to exceed \$2, for music from a jukebox in the establishment.

(2) play the dice game commonly known as shake-a-day, in which a customer may once each day pay an amount of money predetermined by the establishment, but not more than 50 cents, and shake a number of dice predetermined by the establishment in an attempt to roll a certain combination simulating a poker hand predetermined by the establishment and, if the combination is rolled, win all money paid to play the game since the last winning combination was rolled. The establishment may, before a game begins, limit the amount that will be won and use the remaining money played on that game to start the pot for the next game, thus enhancing the incentive to play the next game in the early stages of the next game. All money paid to play games must be paid out as winnings.

NEW SECTION. Section 47. Illegal sale, assignment, lease, or transfer of license -- penalty. A licensee who purposely or knowingly sells, assigns, leases, or transfers a license or permit in violation of 23-5-110 is guilty of a misdemeanor punishable in accordance with 23-5-161.

Section 48. Section 2-15-2021, MCA, is amended to read:

"2-15-2021. Gaming advisory council -- allocation -- composition -- compensation -- ~~annual~~ biennial report. (1) There is a gaming advisory council.

(2) The gaming advisory council is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(3) The gaming advisory council consists of nine members. One member must be from the senate, and one member must be from the house of representatives. The senate committee on committees and the speaker of the house of representatives shall appoint the legislative members of the council. The seven remaining members must be appointed by the department, with one representing the public at large, two representing local governments, one being a Native American, and three representing the gaming industry.

(4) Each gaming advisory council member is appointed to a 3-year term of office, except that three of the first-appointed original members shall serve a 1-year term, three (including both legislative members) shall serve a 2-year term, and three shall serve a 3-year term. A member of the council may be removed for good cause by the appointing body provided for in subsection (3).

(5) The gaming advisory council shall appoint a chairman from its members.

(6) Legislative members of the gaming advisory council are entitled to compensation and expenses, as provided in 5-2-302, while the council is meeting. The remaining members are entitled to travel, meals, and lodging expenses as provided for in 2-18-501 through 2-18-503. Expenses of the council must be paid from licensing fees received by the department.

(7) The gaming advisory council shall, within its authorized budget, hold meetings and incur expenses as it considers necessary to study all aspects of gambling in the state.

(8) (a) The gaming advisory council shall submit ~~an annual~~ a biennial report to the department, at a time designated by the department, with recommendations for amendments to the gambling statutes, the need for additional or modified department rules, the clarification of existing rules, and other recommendations on the operation of the department or any other gambling-related matter.

(b) The ~~annual biennial~~ report required under subsection (8) (a) must be affixed to the ~~annual department~~ report on gambling in the state that the department submits that year. The department and council shall submit the two most recent department and council reports to each of the next two regular sessions of the legislature.

(c) The council may submit interim reports to the department as the council considers necessary.

(d) The council shall meet with the department upon request of the department.

(e) The department shall meet with the council upon request of the council.

(9) The department shall give each council member notice and a copy of each proposed change in administrative rules relating to gambling. The notice and copy must be given at the time a notice of proposed rules changes is filed with the secretary of state. The council shall review the proposal, may comment on it, and may attend any hearing on the proposal. The department shall consider any comment by any council member or by the council as a whole prior to adopting the proposed change."

94. Page 86, line 19.

Strike: "23-5-409"

Insert: "23-5-153"

95. Page 86, line 22.

Strike: "14" through "57"

Insert: "13, 14, 20, 27, 38, 40 through 45, and 47"

96. Page 86, line 25 through page 87, line 1.

Strike: "14" on page 86, line 25 through "57" on page 87, line 1

Insert: "13, 14, 20, 27, 38, 40 through 45, and 47"

97. Page 87, lines 2 through 5.

Strike: subsection (2) in its entirety

Insert: "(2) [Section 46] is intended to be codified as an integral part of Title 23, chapter 5, part 1, and the provisions of Title 23, chapter 5, parts 1 through 6, apply to [section 46]."

98. Page 87.

Following: line 5

Insert: "NEW SECTION. Section 51. Coordination instruction. If Senate Bill No. 427 is passed and approved and if it includes a new section that relates to department of justice disclosure of information from license or permit applications or a section that amends language on that subject in an existing section of Title 23, chapter 5, part 1, then that section of Senate Bill No. 427 is void."

99. Page 87, line 13.

Strike: "(a)"

Strike: "1" through "70"

Insert: "2, 41 through 45, and 50 through 52"

100. Page 87, line 15.

Strike: "(b)"

Insert: "(2)"

Strike: "32" through "68"

Insert: "21 through 23, 26 through 28, 34, and 49"

101. Page 87, lines 17 and 18.

Strike: subsection (c) in its entirety

102. Page 97, line 19.

Strike: "(d)"

Insert: "(3)"

103. Page 87, lines 21 and 22.

Strike: subsection (2) in its entirety

# HOUSE OF REPRESENTATIVES

## JUDICIARY COMMITTEE

ROLL CALL

DATE 3-28-91

| 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   | /       |        |         |
|                                |         |        |         |
|                                |         |        |         |
|                                |         |        |         |
|                                |         |        |         |



Amendments to Senate Bill No. 270  
Third Reading Copy

For the Committee on the Judiciary

Prepared by John MacMaster  
March 26, 1991

1. Page 1, lines 13 through 23.

Strike: lines 13 through 23 in their entirety

2. Page 2, line 4 through page 3, line 10.

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

3. Page 3, line 16.

Strike: "(6) (A)"

Insert: "(5) (a)"

4. Page 4, line 7.

Following: "business"

Insert: "business,"

5. Page 4, line 11.

Strike: "A CRANE"

Insert: "an amusement"

6. Page 4, lines 14 and 16.

Following: "A"

Insert: "wholesale"

7. Page 4, lines 21 and 22.

Strike: "THE AMUSEMENT" on line 21 through "41" on line 22

Insert: "The sale of a right to participate, the determination of winners, and the distribution of prizes all occur in the presence of all players"

8. Page 4, line 25 through page 5, line 1.

Strike: "The fee" on page 4, line 25 through "\$2" on page 5, line 1

Insert: "The player pays cash for the right to play the game"

9. Page 5, line 2.

Following: "awarded"

Insert: ", and only a prize is awarded. Prizes must be displayed and may not be repurchased"

10. Page 5, line 9.

Strike: "during the play"

11. Page 5, line 10.

Strike: "by any person"

12. Page 6, line 2

Following: "MAY"

Insert: "not"

13. Page 6, line 11.

Strike: "CRANE"

Insert: "amusement"

14. Page 6, line 14.

Strike: "A CRANE"

Insert: "an amusement"

15. Page 6, lines 20 through 23.

Strike: section 4 in its entirety

Insert: "NEW SECTION. Section 4. Amusement games allowed. (1)  
Crane games, as defined in [section 1], and the games described in subsection (2) may be made available for public play.

(2)(a) Fish pond (duck pond). The player catches a fish or other object floating in a pond of water by using a pole, hand, net, or string. All fish or objects are marked on the bottom, indicating the size of prize the player wins. The player is awarded a prize each time, and the player must be allowed to continue playing until a prize is won.

(b) Hoop or ring toss. The player tosses a hoop or ring over a target that must consist of bottles, pegs, blocks, or prizes. The operator shall specifically advise the player as to the degree that the hoop or ring must go over the target. All hoops of the same color used at an individual stand must be the same size. All targets used at an individual booth must be the same size, or the operator shall advise the player by posting signs or using color codes denoting the different sizes.

(c) Dart games. The target area for all dart games must be of a material capable of being penetrated and of retaining a metal tip dart. The target area must be in the rear of the stand and must be at least 3 feet but not more than 15 feet from the foul line. A target must be stationary at all times.

(i) Balloon (poparoo) (balloon smash). The targets are inflated balloons. The player throws one or more darts to burst a predetermined number of balloons. If the predetermined number of balloons are burst by the darts, the player receives the prize indicated.

(ii) Dart throw. The targets are various sizes and shapes located on the target area. The player throws darts individually at the target. A dart must stick in a predetermined target to win the prize as designated.

(iii) Tic tac toe dart. The target is a tic tac toe board located in the target area. The player throws darts at the target and wins a designated prize when the thrown darts line up in a row in the target. The darts may line up vertically, horizontally, or diagonally to win.

(iv) Add-um-up darts. The target consists of numbered squares located in the target area. Prizes are awarded based on the total score obtained by the player by throwing and sticking the darts in the numbered squares. A dart that

sticks on a line must be thrown again. The player may add up the score of the darts thrown.

(d) Ball tosses. In all ball toss games, the balls used at a specific stand must be of the same weight and size. Targets must be of the same weight and size, or the operator shall color code the targets and advise the player of the difference in targets by posting a sign or providing a duplicate of the target showing the limitations or restrictions. The sign or duplicate target must be readily visible to the player.

(i) Milk bottle toss. The player tosses or throws balls at simulated milk bottles. The player wins by either tipping over or knocking bottles off the raised platform as designated by the operator. The bottles may be constructed of wood, metal, or plastic or a combination of the three. Operators may vary the number of bottles and balls used in each game. Floating or loose weights in bottles are not allowed. The weight of individual bottles may not exceed 7 1/2 pounds.

(ii) Milk can (Mexican hat) (cone). The player tosses a ball into the opening of a milk can, into a fiberglass Mexican hat turned upside down, or through a cone to win.

(iii) Football toss (tire toss). The player tosses or throws a football through a stationary tire or hoop to win.

(iv) Basketball toss/throw. The player tosses or throws a basketball through a hoop to win.

(v) Bushel baskets. The player tosses balls into a bushel basket mounted on a stationary backdrop at a fixed angle. The balls must stay in the basket to win. Rim shots are allowed, except the operator may designate the top 6 inches of the basket rim by color and disallow balls striking this area as winning tosses.

(vi) Cat-ball-toss (star/diamond toss). The player tosses balls into a simulated cat's mouth or a round, diamond, or star-shaped hole to win.

(vii) Ping pong toss. The player tosses ping pong balls into dishes, saucers, cups, or ashtrays floating in water. A predetermined number of balls must remain in the dishes, saucers, cups, or ashtrays for the player to win. The dishes, saucers, cups, or ashtrays must have water covering the bottom of the surface that is facing up.

(viii) Fish bowl game. The player tosses ping pong balls into a water-filled fish bowl to win.

(ix) Volley ball toss (soccer ball). The player tosses a volley or soccer ball into a keg-type container mounted on a stationary backdrop at a fixed angle. The ball must stay in the keg to win a prize. Rim shots are authorized as stated in subsection (2)(d)(iv) for bushel baskets.

(x) Goblet ball (whiffle ball). The player tosses a whiffle ball into a target area of glass or plastic goblets. Located in the target area are colored goblets that determine the type of prize the player wins. At least 33% of the goblets in the target area must be winners. The ball must stay in the goblet to win a prize.

(xi) Break the plate/bottle. The player tosses or

throws a ball at a plate, phonograph record, or bottle. The type of prize won is determined by the number of targets broken by the player.

(xii) Punk rack. The targets for this game are rows of dolls or cats on a ledge at the rear of the stand. The dolls or cats must be filled with sawdust, styrofoam, cotton, or other like material that provides a firm base for the ball to strike. The hair protruding from the side of the dolls or cats may not exceed 3 inches. The prize is determined by how many dolls or cats the player knocks over or off the ledge, as posted by the operator.

(xiii) Teeth game. The target consists of a large face with wooden teeth. The prize is determined by how many teeth the player knocks down by throwing a ball.

(xiv) Toilet game (doniker). To win, the player tosses or throws a ball or other object through a toilet seat located at the rear of the stand.

(xv) Coke roll. The player rolls a ball down an alley with the object of knocking over two coke bottles standing at the end of the alley. The player must tip over both bottles to win. Bottles must be placed on predetermined spots painted on the surface of the alley.

(xvi) Rolldown. The player rolls balls down an alley with the object of putting the balls in numbered slots at the end of the alley. The scores represented by the balls in each numbered slot are added up at the conclusion of the game. Scores above or below a predetermined score win. The alley surface must be smooth and free from defects at all times.

(xvii) Fascination (I got it). Fascination is a group game that involves competition among the players. The target area consists of 25 holes, and the player tosses or rolls a ball into one of the holes. The object of the game is to get five balls in a row either vertically, horizontally, or diagonally. The first player to accomplish this is the winner. Prize size is determined by the number of players participating in each game.

(xviii) Cake walk. The players walk on a predetermined route with designated spots, and when the operator stops the walk, the player on a predetermined spot wins a prize.

(xix) Batter-up. The player uses a whiffle ball bat to swing and strike whiffle balls that are pitched at medium speed from a pitching machine. The player wins when he hits a ball into the home run shelf. The home run shelf is located at the back of the batting cage approximately 15 feet from the player.

(xx) Sky bowling. Two bowling pins are set on predetermined painted spots on a shelf. A ball is attached to a chain suspended from a stationary support at least 6 inches to the right or left of the bowling pins. The object is to swing the ball, miss the pins with the ball as it goes forward, and knock the pins over as the ball returns.

(xxi) Clown rolldown. A ball is tossed through the open mouth of a moving clown or animal head. The ball then rolls down a chute to numbered slots at the rear of the

clown or animal head. The scores represented by the balls in each numbered slot are added up at the conclusion of the game. Prizes are awarded on the points achieved.

(xxii) Skee ball. The player rolls a ball up the mechanical bowling alley into targets. A computer adds up the scores, and the predetermined scores win.

(xxiii) Speedball radar game. The player gets four balls and throws three balls through radar to establish speeds and to estimate at what speed the fourth ball will pass through the radar. The player wins a prize if he accurately estimates the speed of the fourth ball. The radar must be mounted and stationary.

(e) Shooting games. These games are conducted by the player using a weapon of some type to shoot at a target in the rear of the stand. The safety requirements of local city or county ordinances must be observed by the operator and player. The target may be stationary or mobile.

(i) Short range (shooting gallery). In this game, the player is given four rounds to shoot at a spot target 1/4 inch or less in diameter. The player wins when the spot target is completely shot out, or the player is given five rounds to shoot one round each at five triangular, round, or 1/2-inch square targets. The prize is determined by the number of targets struck by the player, or the player is given five rounds to shoot one round each at five triangular, round, or 1/2-inch square targets. Within each target is a bull's eye. The player must hit the bull's eye without touching the outer surface of the target. The prize is determined by the number of bull's eyes correctly hit.

(ii) Shoot-out-the-star (machine gun). The player, using an automatic air pellet gun, is given 100 pellets to shoot at a star-shaped target. The player must shoot out all of the target to win. The star cannot be more than 1 1/4 inches from point-to-point.

(iii) Water racer. This group game involves a competition, with the player winning a prize based on the number of players competing. The player, using a water pistol, shoots the water into a target. The water that strikes the target causes a balloon to inflate or advances an object to ring a bell. The first player who bursts the balloon or rings the bell is the winner.

(iv) Rapid fire. This group game involves competition similar to the water racer game described in subsection (2)(e)(iii). The player uses an electronic pistol to shoot at a target. Hits on the target give the player a score. The first player to reach a predetermined score is the winner.

(v) Cork gallery. The player uses a cork gun or similar device to propel objects, including but not limited to corks, suction cup darts, or styrofoam balls, to shoot at targets located on a shelf or at a bull's eye target. The player must hit the bull's eye or knock the target over or off the shelf to win a prize. The prize is determined by the target knocked over or off the shelf, by the number of targets knocked over or off the shelf, or by the player

accomplishing other tasks, as stated in the posted rules. When suction cup darts or other darts are used and fail to stay on or in the target, the player must shoot the dart again. The base of each target must be uniform, front and rear.

(vi) Boomball. The player uses a cannon with compressed air to propel balls into a target area. The targets have varied point value. If the ball remains in the target, a computer adds up the score. Prizes are awarded based on the points achieved.

(f) Coin pitchers.

(i) Spot pitch (lucky strike). The player pitches a coin at colored spots located on a table in the center of the stand. The coin must touch or stay inside of a spot to win a prize.

(ii) Plate pitch. The player pitches a coin onto a glass plate to win a prize as designated.

(iii) Glass pitch (bowl). The player pitches a coin into or onto dishes or glasses. If the coin remains in a top target glass item, then the player wins that item.

(g) Miscellaneous games.

(i) Skill chute (bulldozer) (penny fall). The player inserts a coin or token into a chute, aiming the coin or token so that it will fall in front of a continuous sweeper (bulldozer). If the coin or token is aimed correctly, the sweeper (bulldozer) will push additional tokens or prizes into a hole or chute that sends them to the player. Tokens are exchanged for prizes. If there is a hidden ledge, tip, or similar obstruction that inhibits the passage of tokens or prizes into the hole or chute that sends them to the player, the operator shall post a sign to advise the players.

(ii) Tip-em-up bottle. The player is provided with a pole and a string that has a hoop or ring attached at the end. The player, using the pole with a ring, must raise a bottle lying on its side to an upright position to win.

(iii) Hi-striker. The player, using a wooden maul, must strike a lever target that causes a metal weight to rise on a guideline or track and ring a bell. The player must ring the bell a predetermined number of times to win a prize.

(iv) Rope ladder. The player must climb up a rope ladder, which is anchored at both ends by a swivel, and ring a bell or buzzer to win a prize.

(v) Whac-a-mole. This is a group game that has a target surface with 5 holes through which animated moles pop up and down at random. The player must hit as many moles as possible with a mallet. The first player to hit a predetermined number of moles wins.

(vi) Dip bowling game. The player rolls a bowling-type ball over a hump in the track. If the ball stays on the back side of the hump, the player wins.

(vii) Horserace derby. This is a group game in which a player advances his horse by shooting or rolling a ball in the target area. The faster and more skillfully the player

shoots or rolls his ball, the faster his horse will run. The first horse to cross the finish line wins.

(viii) Shuffleboard. The player pushes a puck down a shuffleboard alley to knock over poly pins at the end of an alley. The player wins by knocking down all the pins.

(ix) Bean bag. The player tosses or throws a bean bag or a simulated bean bag at cans, bottles, or other objects on a raised platform. The player wins a prize when he either knocks the object off the raised platform or tips the target over.

(x) Soccer kick. The player kicks a soccer ball through a hole in the target area to win.

(xi) Frog game. A plastic frog or similar object sits on a small end of a teeter-totter. The opposite end of the teeter-totter is struck with a mallet, causing the frog to fly off the teeter-totter. If the frog lands in a pail or similar receptacle, the player wins a prize.

(xii) Cover the spot. The object of this game is for the player to drop five circular discs onto a circular spot, completely covering the spot. The diameter of each of the discs used to cover the spot must be a minimum of 64% of the diameter of the spot to be covered. The spot to be covered must be painted or drawn on a permanent, solid material, such as metal or wood, or may be a lighted circle. The spot and each disc must have a uniform diameter.

(xiii) Pocket billiards. Using a regulation pocket billiard table, a player must run a consecutive number of balls to win a prize. The number of balls is set by the operator."

## HOUSE OF REPRESENTATIVES

## JUDICIARY COMMITTEE

## ROLL CALL VOTE

DATE 3-28-91 BILL NO. 5B270 NUMBER       MOTION: Brown amendedEXHIBIT 2  
DATE 3-28-91  
JB 270

| NAME                           | AYE                                 | NO                                  |
|--------------------------------|-------------------------------------|-------------------------------------|
| REP. VIVIAN BROOKE, VICE-CHAIR | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| REP. ARLENE BECKER             | <input type="checkbox"/>            | <input type="checkbox"/>            |
| REP. WILLIAM BOHARSKI          | <input type="checkbox"/>            | <input type="checkbox"/>            |
| REP. DAVE BROWN                | <input type="checkbox"/>            | <input type="checkbox"/>            |
| REP. ROBERT CLARK              | <input type="checkbox"/>            | <input type="checkbox"/>            |
| REP. PAULA DARKO               | <input type="checkbox"/>            | <input type="checkbox"/>            |
| REP. BUDD GOULD                | <input type="checkbox"/>            | <input type="checkbox"/>            |
| REP. ROYAL JOHNSON             | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| REP. VERNON KELLER             | <input type="checkbox"/>            | <input type="checkbox"/>            |
| REP. THOMAS LEE                | <input type="checkbox"/>            | <input type="checkbox"/>            |
| REP. BRUCE MEASURE             | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| REP. CHARLOTTE MESSMORE        | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| REP. LINDA NELSON              | <input type="checkbox"/>            | <input type="checkbox"/>            |
| REP. JIM RICE                  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| REP. ANGELA RUSSELL            | <input type="checkbox"/>            | <input type="checkbox"/>            |
| REP. JESSICA STICKNEY          | <input type="checkbox"/>            | <input type="checkbox"/>            |
| REP. HOWARD TOOLE              | <input type="checkbox"/>            | <input type="checkbox"/>            |
| REP. TIM WHALEN                | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| REP. DIANA WYATT               | <input type="checkbox"/>            | <input type="checkbox"/>            |
| REP. BILL STRIZICH, CHAIRMAN   | <input type="checkbox"/>            | <input type="checkbox"/>            |
| TOTAL                          | 14                                  | 6                                   |



EXHIBIT 3  
DATE 3-28-91  
HB SB 270

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 3-28 BILL NO. SB 270 NUMBER

MOTION: Rep. Johnson moved SB 270 Be Tabled.

| NAME                           | AYE | NO |
|--------------------------------|-----|----|
| 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   |     | /  |
| TOTAL                          | 7   | 13 |

EXHIBIT 4  
DATE 3-28-91  
HB 23270

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 3-28-91 BILL NO. 38270 NUMBER       

MOTION: Rep. Toole moved an amendment to put  
the Department of Justice back in the bill.

| NAME                           | AYE | NO |
|--------------------------------|-----|----|
| 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   |     | —  |
| TOTAL                          | 11  | 9  |

EXHIBIT 5  
DATE 3-28-91  
# SB 270

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 3-28-91 BILL NO. SB 270 NUMBER \_\_\_\_\_

MOTION: Boh motion to reconsider action on the  
Toole amendment.

PASSED

| NAME                           | AYE | NO |
|--------------------------------|-----|----|
| 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   | /   |    |
| TOTAL                          | 13  | 10 |

EXHIBIT 6  
DATE 3-28-97  
# 270

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 378 BILL NO. SB 270 NUMBER         

MOTION: Rep Beaton moved Do Pass AS AMENDED

| NAME                           | AYE | NO |
|--------------------------------|-----|----|
| 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   | /   |    |
| TOTAL                          | 15  | 5  |

INTRODUCED BY House Bill No. 673

BY REQUEST OF THE GAMING ADVISORY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE PUBLIC GAMBLING LAWS OF MONTANA; PROHIBITING LOCAL GOVERNMENTS FROM OBTAINING GAMBLING OPERATOR'S LICENSES EXCEPT UNDER CERTAIN CIRCUMSTANCES; PROHIBITING GAMBLING PERMIT FEES; ESTABLISHING A SEASONAL OPERATOR'S LICENSE AND PERMITS; PROVIDING FOR CARD GAME TOURNAMENTS; ~~REPEALING THE LIVE-BINGO AND KENO TAX AND MODIFYING THE LIVE-BINGO AND KENO PERMIT FEES~~; EXPANDING PROVISIONS GOVERNING SPORTS POOLS; AUTHORIZING THE LIVE-CARD GAME OF ~~BLACKJACK~~ VIDEO GAMBLING MACHINE PROMOTIONAL TOURNAMENTS, LIMITED WAGERING IN PUBLIC PLACES, ~~FANTASY SPORTS LEAGUES, AND CRANE GAMES~~; PROVIDING STATUTORY APPROPRIATIONS; AMENDING SECTIONS 17-7-502, 23-5-112, 23-5-114, 23-5-115, 23-5-123, 23-5-136, 23-5-152, 23-5-154, 23-5-158, 23-5-162, 23-5-176, 23-5-177, 23-5-306, 23-5-308, 23-5-309, 23-5-312, 23-5-313, 23-5-406, 23-5-407, 23-5-412, 23-5-413, 23-5-501, 23-5-503, 23-5-602, 23-5-603, 23-5-608, 23-5-610, 23-5-611, 23-5-612, 23-5-621, 23-5-625, 23-5-631, AND 41-5-203, MCA; REPEALING SECTION 23-5-409, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [sections 30, 37, 48, and 63] authorize the department of justice to adopt rules concerning ~~blackjack~~ sports pools and video gambling machine promotional tournaments ~~and cranes~~ games. It is the legislature's intent that rules adopted by the department provide adequate protection for both the playing and nonplaying public and ensure the integrity of fee and tax revenues generated from the games, if applicable.

~~(1) Because blackjack is a major new form of gambling authorized by this bill, the legislature contemplates that comprehensive rules governing the conduct and regulation of the game will be adopted. The rules must include but are not limited to the following provisions:~~

~~(a) Blackjack tables must be numbered, have no more than seven betting spaces, and provide places for tip betting.~~

~~(b) Drop boxes must be numbered and have one lock to secure the box to the blackjack table and one or two separate locks to secure the contents placed in the box.~~

~~(c) A dealing shoe or shuffling device may not be used unless approved by the department. The department shall implement a procedure for a manufacturer to submit a prototype of the shoe or device to the department for~~

1 examination.

2 (d) Cards must be designed to diminish the ability of a  
3 player to place concealing marks on them.

4 (e) The department may not adopt rules requiring  
5 operators to use chips with standardized colors and edge  
6 spots. However, the department shall adopt rules requiring  
7 that blackjack chips must be distinguishable from chips used  
8 in other card games (e.g., poker) to ensure the integrity of  
9 blackjack tax revenues.

10 (f) A drop box must be opened and counted by at least a  
11 two-person count team.

12 (g) An operator shall maintain daily accounting records  
13 documenting the activity at each blackjack table. Daily cash  
14 profits must be deposited in the operator's account at a  
15 financial institution within 5 days after the day of play.

16 (h) Department rules governing dealing of cards and  
17 play of the game must be consistent with the requirements of  
18 [section 30(5) and (6)].

19 (2) Section 23-5-501 is amended by revising the  
20 definition of a sports pool. This revision eliminates the  
21 requirement that sports pools be conducted on a card divided  
22 into squares or spaces in which the names of pool  
23 participants are written. Therefore, sports pools may take a  
24 variety of forms, subject to certain restrictions. The  
25 department shall adopt rules describing the various types of

-3-

including, but not limited to, those commonly known  
as or similar to baseball blackout, <sup>4</sup>pro football, total  
runs pool, baseball progressive pool, home run contest,  
pick the final four, 39 (or other number) points pool,  
28 (or other number) club, NFL win pool, four way  
multiple pool, high school and college tournament pools,  
and golf board

1 sports pools that will qualify. Furthermore, the department  
2 shall develop and implement a procedure for reviewing and  
3 approving variations of approved sports pools.

4 (3) A video gambling machine promotional tournament in  
5 which no money is wagered is intended to serve as a trade  
6 stimulant only. The department shall prescribe the  
7 tournament permit application form, define the procedure for  
8 obtaining a permit, and provide basic rules for conducting a  
9 tournament. Procedures for submitting a promotional device  
10 to the department for approval, similar to those used for  
11 submitting associated equipment, also must be specified. In  
12 addition, the rules must describe specifications for a  
13 promotional device used to modify a video gambling machine  
14 to ensure that the machine's software and hardware  
15 capabilities are unaltered when the machine is returned to  
16 normal play.

17 (4) [Sections 1 through 31, amending 23-5-117, exempt  
18 crane games from the definition of gambling. Rules adopted  
19 by the department must ensure that crane games are not used  
20 as gambling devices. In developing rules, the department  
21 must be mindful that crane game players include children as  
22 well as adults. Rules must also describe procedures for  
23 obtaining a license and permit and define the department's  
24 responsibility for onsite inspection of the machines.]

LC 0113/01

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

~~Section 1. section 23-5-112, MCA, is amended to read:~~

~~"23-5-112. Definitions. Unless the context requires otherwise, the following definitions apply to parts 1 through 6 of this chapter:~~

~~(1) "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 6 of this chapter.~~

~~(2) "Application" means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.~~

~~(3) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected by the department and that randomly selects the numbers.~~

~~(4) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each letter above one of the columns. No more than 75 numbers may be used. One number must appear in each square, except for the center square, which may be considered a free play. Numbers are randomly drawn using authorized equipment until the game is won by the person or persons who first cover a previously designated arrangement of numbers on the bingo card.~~

LC 0113/01

~~(5) "Bingo caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live bingo.~~

~~(6) "Card game table" or "table" means a live card game table authorized by permit and made available to the public on the premises of a licensed gambling operator.~~

~~(7) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.~~

~~(8) "Department" means the department of justice.~~

~~(9) "Distributor" means a person who:~~

~~(a) purchases or obtains from another person equipment of any kind for use in gambling activities; and~~

~~(b) sells, leases, or otherwise furnishes the equipment to another person for use in public.~~

~~(10) "Gambling" or "gambling activity" means risking money, credit, deposit, check, property, or any other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling device or gambling enterprise. The term does not include the operation of a crane game as governed under [sections 58 through 67].~~

~~(11) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling activity.~~

~~(12) "Gambling enterprise" means an activity, scheme, or~~

1 agreement or an attempted activity, scheme, or agreement to  
2 provide gambling or a gambling device to the public.

3 (13) "Gross proceeds" means gross revenue received less  
4 prizes paid out.

5 (14) "Illegal gambling device" means a gambling device  
6 not specifically authorized by statute or by the rules of  
7 the department.

8 (15) "Illegal gambling enterprise" means a gambling  
9 enterprise that violates a statute or a rule of the  
10 department.

11 (16) "Keno" means a game of chance in which prizes are  
12 awarded using a card with 8 horizontal rows and 10 columns  
13 on which a player may pick up to 10 numbers. A keno caller,  
14 using authorized equipment, shall select at random at least  
15 20 numbers out of numbers between 1 and 80, inclusive.

16 (17) "Keno caller" means a person 18 years of age or  
17 older who, using authorized equipment, announces the order  
18 of the numbers drawn in live keno.

19 (18) "License" means an operator's, dealer's, or  
20 manufacturer-distributor's license issued to a person by the  
21 department.

22 (19) "Licensee" means a person who has received a  
23 license from the department.

24 (20) "Live card game" or "card game" means a card game  
25 that is played in public between persons on the premises of

1 a licensed gambling operator.

2 (21) "Lottery" or "gift enterprise" means a scheme, by  
3 whatever name known, for the disposal or distribution of  
4 property by chance among persons who have paid or promised  
5 to pay valuable consideration for the chance of obtaining  
6 the property or a portion of it or for a share or interest  
7 in the property upon an agreement, understanding, or  
8 expectation that it is to be distributed or disposed of by  
9 lot or chance. However, "gift enterprise" does not mean:

10 (a) lotteries authorized under part 10 of this chapter;

11 or

12 (b) cash or merchandise attendance prizes or premiums  
13 that the county fair commissioners of agricultural fairs and  
14 rodeo associations may give away at public drawings at fairs  
15 and rodeos.

16 (22) "Manufacturer" means a person who assembles from  
17 raw materials or subparts a completed piece of equipment or  
18 pieces of equipment of any kind to be used as a gambling  
19 device.

20 (23) "Operator" means a person who purchases, receives,  
21 or acquires, by lease or otherwise, and operates or controls  
22 for use in public, a gambling device or gambling enterprise  
23 authorized under parts 1 through 6 of this chapter.

24 (24) "Permit" means approval from the department to make  
25 available for public play a gambling device or gambling



LC 0113/01

LC 0113/01

1 enterprise approved by the department pursuant to parts 1  
2 through 6 of this chapter.

3 (25) "Person" or "persons" means both natural and  
4 artificial persons and all partnerships, corporations,  
5 associations, clubs, fraternal orders, and societies,  
6 including religious and charitable organizations.

7 (26) "Premises" means the physical building or property  
8 within or upon which a licensed gambling activity occurs, as  
9 stated on an operator's license application and approved by  
10 the department.

11 (27) "Public gambling" means gambling conducted in:

12 (a) a place, building, or conveyance to which the  
13 public has access or may be permitted to have access; or

14 (b) a place of public resort, including but not limited  
15 to a facility owned, managed, or operated by a partnership,  
16 corporation, association, club, fraternal order, or society,  
17 including a religious or charitable organization.

18 (28) "Raffle" means a gift enterprise in which each  
19 participant buys a chance or chances to win a prize.

20 (29) "Slot machine" means a mechanical, electrical,  
21 electronic or other gambling device, contrivance, or  
22 machine that, upon insertion of a coin, currency, token,  
23 credit card, or similar object or upon payment of any  
24 valuable consideration, is available to play or operate, the  
25 play or operation of which, whether by reason of the skill

1 of the operator or application of the element of chance, or  
2 both, may deliver or entitle the person playing or operating  
3 the gambling device to receive cash, premiums, merchandise,  
4 tokens, or anything of value, whether the payoff is made  
5 automatically from the machine or in any other manner. This  
6 definition does not apply to video gambling machines  
7 authorized under part 6 of this chapter.

8 (30) "Video gambling machine" is a gambling device  
9 specifically authorized by part 6 of this chapter and the  
10 rules of the department."

11 Section 2. Section 23-5-112, MCA, is amended to read:

12 "23-5-112. Definitions. Unless the context requires  
13 otherwise, the following definitions apply to parts 1  
14 through 6 of this chapter:

15 (1) "Applicant" means a person who has applied for a  
16 license or permit issued by the department pursuant to parts  
17 1 through 6 of this chapter.

18 (2) "Application" means a written request for a license  
19 or permit issued by the department. The department shall  
20 adopt rules describing the forms and information required  
21 for issuance of a license.

22 (3) "Authorized equipment" means, with respect to live  
23 keno or bingo, equipment that may be inspected by the  
24 department and that randomly selects the numbers.

25 (4) (3) "Bingo" means a gambling activity played for

reinsert

1 prizes with a card bearing a printed design of 5 columns of  
 2 5 squares each, 25 squares in all. The letters B-I-N-G-O  
 3 must appear above the design, with each letter above one of  
 4 the columns. No more than 75 numbers may be used. One number  
 5 must appear in each square, except for the center square,  
 6 which may be considered a free play. Numbers are randomly  
 7 drawn using authorized equipment until the game is won by  
 8 the person or persons who first cover a previously  
 9 designated arrangement of numbers on the bingo card.

10 f57(4) "Bingo caller" means a person 18 years of age or  
 11 older who, using authorized equipment, announces the order  
 12 of the numbers drawn in live bingo.

13 f67(5) "Card game table" or "table" means a live card  
 14 game table authorized by permit and made available to the  
 15 public on the premises of a licensed gambling operator.

16 f77(6) "Dealer" means a person with a dealer's license  
 17 issued under part 3 of this chapter.

18 f87(7) "Department" means the department of justice.

19 f97(8) "Distributor" means a person who:

- 20 (a) purchases or obtains from another person equipment
- 21 of any kind for use in gambling activities; and
- 22 (b) sells, leases, or otherwise furnishes the equipment
- 23 to another person for use in public.

24 f107(9) "Gambling" or "gambling activity" means risking  
 25 money, credit, deposit, check, property, or any other thing

*Insert definition of "gift  
 enterprise" from HB 958.*

1 of value for a gain that is contingent in whole or in part  
 2 upon lot, chance, or the operation of a gambling device or  
 3 gambling enterprise. The term does not include the operation  
 4 of a game as governed under sections 58 through 67.

5 f117(10) "Gambling device" means a mechanical,  
 6 electromechanical, or electronic device, machine, slot  
 7 machine, instrument, apparatus, contrivance, scheme, or  
 8 system used or intended for use in any gambling activity.

9 f127(11) "Gambling enterprise" means an activity,  
 10 scheme, or agreement or an attempted activity, scheme, or  
 11 agreement to provide gambling or a gambling device to the  
 12 public.

13 f137(12) "Gross proceeds" means gross revenue received  
 14 less prizes paid out.

15 f147(13) "Illegal gambling device" means a gambling  
 16 device not specifically authorized by statute or by the  
 17 rules of the department. The term includes but is not  
 18 limited to:

- 19 (a) a ticket or card known by any name containing
- 20 concealed numbers or symbols that may match numbers or
- 21 symbols designated in advance as prize winners; including a
- 22 pull tab, punchboard, push card, tip board, pickle ticket,
- 23 break-open, or jar game and not including a ticket or card
- 24 issued under part 10 of this title or used in non-gambling
- 25 promotional activity approved by the department; and

LC 0113/01

LC 0113/01

1 (b) an apparatus, implement, or device known by any  
2 name and specifically designed to be used in conducting an  
3 illegal gambling enterprise, including a faro box, faro  
4 layout, roulette wheel, roulette table, craps table, money  
5 wheel, or slot machine except as provided in 23-5-153.

6 (15)(14) "Illegal gambling enterprise" means a gambling  
7 enterprise that violates or is not specifically authorized  
8 by a statute or a rule of the department. The term includes  
9 but is not limited to:

10 (a) a card game known by any name and involving a bank  
11 or fund from which a participant may win money or other  
12 consideration and that receives money or other consideration  
13 lost by the participant, including the card games of  
14 blackjack, twenty-one, jacks or better, baccarat, and chemin  
15 de fer;

16 (b) a dice game known by any name and in which a  
17 participant wagers on the outcome of the roll of one or more  
18 dice, including craps, hazard, or chuck-a-luck and not  
19 including <sup>snake-a-dice</sup> an activity in which a participant rolls one or  
20 more dice for a chance to obtain a drink or music; and

21 (c) sports betting known by any name and in which a  
22 person places a wager on the outcome of an athletic event,  
23 including bookmaking, parlay bets, sports sweepstakes, and  
24 sultan sports cards and not including those activities  
25 authorized in chapter 4, chapter 5, parts 2 and 5, and

1 [section 52].

2 (16)(15) "Keno" means a game of chance in which prizes  
3 are awarded using a card with 8 horizontal rows and 10  
4 columns on which a player may pick up to 10 numbers. A keno  
5 caller using authorized equipment shall select at  
6 random at least 20 numbers out of numbers between 1 and 80,  
7 inclusive.

8 (17)(16) "Keno caller" means a person 18 years of age or  
9 older who, using authorized equipment, announces the order  
10 of the numbers drawn in live keno.

11 (18)(17) "License" means an operator's, dealer's, or  
12 manufacturer-distributor's license issued to a person by the  
13 department.

14 (19)(18) "Licensee" means a person who has received a  
15 license from the department.

16 (20)(19) "Live card game" or "card game" means a card  
17 game that is played in public between persons on the  
18 premises of a licensed gambling operator.

19 (21)(20) "Lottery" or "gift enterprise" means a scheme,  
20 by whatever name known, for the disposal or distribution of  
21 property by chance among persons who have paid or promised  
22 to pay valuable consideration for the chance of obtaining  
23 the property or a portion of it or for a share or interest  
24 in the property upon an agreement, understanding, or  
25 expectation that it is to be distributed or disposed of by

1 lot or chance. However, "gift enterprise" does not mean:  
 2 (a) lotteries authorized under part 10 of this chapter;  
 3 or

4 (b) cash or merchandise attendance prizes or premiums  
 5 that the county fair commissioners of agricultural fairs and  
 6 rodeo associations may give away at public drawings at fairs  
 7 and rodeos.

8 ~~(22)~~(21) "Manufacturer" means a person who assembles  
 9 from raw materials or subparts a completed piece of  
 10 equipment or pieces of equipment of any kind to be used as a  
 11 gambling device.

12 (22) "Nonprofit organization" means a nonprofit  
 13 corporation or nonprofit charitable, religious, scholastic,  
 14 educational, veterans', fraternal, beneficial, civic, or  
 15 service organization established for purposes other than to  
 16 conduct a gambling activity.

17 (23) "Operator" means a person who purchases, receives,  
 18 or acquires, by lease or otherwise, and operates or controls  
 19 for use in public, a gambling device or gambling enterprise  
 20 authorized under parts 1 through 6 of this chapter.

21 (24) "Permit" means approval from the department to make  
 22 available for public play a gambling device or gambling  
 23 enterprise approved by the department pursuant to parts 1  
 24 through 6 of this chapter.

25 (25) "Person" or "persons" means both natural and

1 artificial persons and all partnerships, corporations,  
 2 associations, clubs, fraternal orders, and societies,  
 3 including religious and charitable organizations.

4 (26) "Premises" means the physical building or property  
 5 within or upon which a licensed gambling activity occurs, as  
 6 stated on an operator's license application and approved by  
 7 the department.

8 (27) "Public gambling" means gambling conducted in:

9 (a) a place, building, or conveyance to which the  
 10 public has access or may be permitted to have access; or

11 (b) a place of public resort, including but not limited  
 12 to a facility owned, managed, or operated by a partnership,  
 13 corporation, association, club, fraternal order, or society,  
 14 including a religious or charitable organization.

15 (28) "Raffle" means a gift-enterprise form of lottery in  
 16 which each participant buys--a--chance--or--chances pays  
 17 valuable consideration for a ticket to become eligible to  
 18 win a prize. Winners must be determined by a random  
 19 selection process approved by department rule.

20 (29) "Slot machine" means a mechanical, electrical,  
 21 electronic, or other gambling device, contrivance, or  
 22 machine that, upon insertion of a coin, currency, token,  
 23 credit card, or similar object or upon payment of any  
 24 valuable consideration, is available to play or operate, the  
 25 play or operation of which, whether by reason of the skill

LC 0113/01

LC 0113/01

1 of the operator or application of the element of chance, or  
2 both, may deliver or entitle the person playing or operating  
3 the gambling device to receive cash, premiums, merchandise,  
4 tokens, or anything of value, whether the payoff is made  
5 automatically from the machine or in any other manner. This  
6 definition does not apply to video gambling machines  
7 authorized under part 6 of this chapter.

8 (30) "Video gambling machine" is a gambling device  
9 specifically authorized by part 6 of this chapter and the  
10 rules of the department."

11 ~~Section 3. Section 23-5-112, WCA, is amended to read:~~

12 ~~"23-5-112. Definitions. Unless the context requires~~  
13 ~~otherwise, the following definitions apply to parts 1~~  
14 ~~through 6 of this chapter:~~

15 (1) ~~"Applicant" means a person who has applied for a~~  
16 ~~license or permit issued by the department pursuant to parts~~  
17 ~~1 through 6 of this chapter.~~

18 (2) ~~"Application" means a written request for a license~~  
19 ~~or permit issued by the department. The department shall~~  
20 ~~adopt rules describing the forms and information required~~  
21 ~~for issuance of a license.~~

22 (3) ~~"Authorized equipment" means, with respect to--live~~  
23 ~~keno--or--bingo--equipment--that--may--be--inspected--by--the~~  
24 ~~department--and--that--randomly--selects--the--numbers--~~

25 (4) ~~(3) "Bingo" means a gambling activity played for~~

1 prizes with a card bearing a printed design of 5 columns of  
2 5 squares each, 25 squares in all. The letters B-I-N-G-O  
3 must appear above the design, with each letter above one of  
4 the columns. No more than 75 numbers may be used. One number  
5 must appear in each square, except for the center square,  
6 which may be considered a free play. Numbers are randomly  
7 drawn using authorized equipment until the game is won by  
8 the person or persons who first cover a previously  
9 designated arrangement of numbers on the bingo card.

10 (5) (4) "Bingo caller" means a person 18 years of age or  
11 older who, using authorized equipment, announces the order  
12 of the numbers drawn in live bingo.

13 (5) "Blackjack" means a live card game played by a  
14 maximum of seven players and one dealer. The object of the  
15 game is for a player to obtain a higher total card count  
16 than the dealer by reaching 21 or as close to 21 as possible  
17 without exceeding that count.

18 (6) "Card game table" or "table" means a live card game  
19 table authorized by permit and made available to the public  
20 on the premises of a licensed gambling operator.

21 (7) "Dealer" means a person with a dealer's license  
22 issued under part 3 of this chapter.

23 (8) "Department" means the department of justice.

24 (9) "Distributor" means a person who:

25 (a) purchases or obtains from another person equipment

1 of any kind for use in gambling activities; and

2 (b) sells, leases, or otherwise furnishes the equipment  
3 to another person for use in public.

4 (10) "Drop" means the total amount of money that is paid  
5 by a player to a dealer to purchase blackjack chips and that  
6 is deposited by the dealer in a drop box.

7 (11) "Gambling" or "gambling activity" means risking  
8 money, credit, deposit, check, property, or any other thing  
9 of value for a gain that is contingent in whole or in part  
10 upon lot, chance, or the operation of a gambling device or  
11 gambling enterprise. The term does not include the operation  
12 of a crane game as governed under [sections 58 through 67].

13 (12) "Gambling device" means a mechanical,  
14 electromechanical, or electronic device, machine, slot  
15 machine, instrument, apparatus, contrivance, scheme, or  
16 system used or intended for use in any gambling activity.

17 (13) "Gambling enterprise" means an activity,  
18 scheme, or agreement or an attempted activity, scheme, or  
19 agreement to provide gambling or a gambling device to the  
20 public.

21 (14) "Gross proceeds" means gross revenue received  
22 less prizes paid out.

23 (15) "Illegal gambling device" means a gambling  
24 device not specifically authorized by statute or by the  
25 rules of the department. The term includes but is not

1 limited to:

2 (a) a ticket or card known by any name and containing  
3 concealed numbers or symbols that may match numbers or  
4 symbols designated in advance as prize winners, including a  
5 pull tab, punchboard, push card, tip board, pickle ticket,  
6 break-open, or jar game and not including a ticket or card  
7 issued under part 10 of this title or used in a nongambling  
8 promotional activity approved by the department; and

9 (b) an apparatus, implement, or device known by any  
10 name and specifically designed to be used in conducting an  
11 illegal gambling enterprise, including a faro box, faro  
12 layout, roulette wheel, roulette table, craps table, money  
13 wheel, or slot machine except as provided in 23-5-153.

14 (16) "Illegal gambling enterprise" means a gambling  
15 enterprise that violates or is not specifically authorized  
16 by a statute or a rule of the department. The term includes  
17 but is not limited to:

18 (a) a card game known by any name and involving a bank  
19 or fund from which a participant may win money or other  
20 consideration and that receives money or other consideration  
21 lost by the participant, including the card games of jacks  
22 or better, baccarat, and chemin de fer;

23 (b) a dice game known by any name and in which a  
24 participant wagers on the outcome of the roll of one or more  
25 dice, including craps, hazard, and chuck-a-luck and not

LC 0113/01

1 including an activity in which a participant rolls one or  
2 more dice for a chance to obtain a drink or music; and  
3 (c) sports betting known by any name and in which a  
4 person places a wager on the outcome of an athletic event,  
5 including bookmaking, parlay bets, sports sweepstakes, and  
6 sultan sports cards and not including those activities  
7 authorized in chapter 4, chapter 5, parts 2 and 5, and  
8 [section 52].

9 {16}(17) "Keno" means a game of chance in which prizes  
10 are awarded using a card with 8 horizontal rows and 10  
11 columns on which a player may pick up to 10 numbers. A keno  
12 caller,--using-authorized-equipment,--shall-select selects at  
13 random at least 20 numbers out of numbers between 1 and 80,  
14 inclusive.

15 {17}(18) "Keno caller" means a person 18 years of age or  
16 older who, using authorized equipment, announces the order  
17 of the numbers drawn in live keno.

18 {18}(19) "License" means an operator's, dealer's, or  
19 manufacturer-distributor's license issued to a person by the  
20 department.

21 {19}(20) "Licensee" means a person who has received a  
22 license from the department.

23 {20}(21) "Live card game" or "card game" means a an  
24 authorized card game that is played in public between  
25 persons on the premises of a licensed gambling operator;

LC 0113/01

1 (a) between players; or  
2 (b) in the case of blackjack, between a player and a  
3 licensed dealer representing an operator.

4 {21}(22) "Lottery" or "gift enterprise" means a scheme,  
5 by whatever name known, for the disposal or distribution of  
6 property by chance among persons who have paid or promised  
7 to pay valuable consideration for the chance of obtaining  
8 the property or a portion of it or for a share or interest  
9 in the property upon an agreement, understanding, or  
10 expectation that it is to be distributed or disposed of by  
11 lot or chance. However, "gift enterprise" does not mean:

12 (a) lotteries authorized under part 10 of this chapter;  
13 or

14 (b) cash or merchandise attendance prizes or premiums  
15 that the county fair commissioners of agricultural fairs and  
16 rodeo associations may give away at public drawings at fairs  
17 and rodeos.

18 {22}(23) "Manufacturer" means a person who assembles  
19 from raw materials or subparts a completed piece of  
20 equipment or pieces of equipment of any kind to be used as a  
21 gambling device.

22 {24} "Nonprofit organization" means a nonprofit  
23 corporation or nonprofit charitable, religious, scholastic,  
24 educational, veterans', fraternal, beneficial, civic, or  
25 service organization, established for purposes other than to

1 ~~conduct a gambling activity.~~  
2 ~~(23)(25) "Operator" means a person who purchases,~~  
3 ~~receives, or acquires, by lease or otherwise, and operates~~  
4 ~~or controls for use in public, a gambling device or gambling~~  
5 ~~enterprise authorized under parts 1 through 6 of this~~  
6 ~~chapter.~~  
7 ~~(24)(26) "Permit" means approval from the department to~~  
8 ~~make available for public play a gambling device or gambling~~  
9 ~~enterprise approved by the department pursuant to parts 1~~  
10 ~~through 6 of this chapter.~~  
11 ~~(25)(27) "Person" or "persons" means both natural and~~  
12 ~~artificial persons and all partnerships, corporations,~~  
13 ~~associations, clubs, fraternal orders, and societies,~~  
14 ~~including religious and charitable organizations.~~  
15 ~~(26)(28) "Premises" means the physical building or~~  
16 ~~property within or upon which a licensed gambling activity~~  
17 ~~occurs, as stated on an operator's license application and~~  
18 ~~approved by the department.~~  
19 ~~(27)(29) "Public gambling" means gambling conducted in:~~  
20 ~~(a) a place, building, or conveyance to which the~~  
21 ~~public has access or may be permitted to have access; or~~  
22 ~~(b) a place of public resort, including but not limited~~  
23 ~~to a facility owned, managed, or operated by a partnership,~~  
24 ~~corporation, association, club, fraternal order, or society,~~  
25 ~~including a religious or charitable organization.~~

1 ~~(28)(30) "Raffle" means a gift--enterprise form of~~  
2 ~~lottery in which each participant buys a chance--or--chances~~  
3 ~~pays valuable consideration for a ticket to become eligible~~  
4 ~~to win a prize. Winners must be determined by a random~~  
5 ~~selection process approved by department rule.~~  
6 ~~(29)(31) "Slot machine" means a mechanical, electrical,~~  
7 ~~electronic, or other gambling device, contrivance, or~~  
8 ~~machine that, upon insertion of a coin, currency, token,~~  
9 ~~credit card, or similar object or upon payment of any~~  
10 ~~valuable consideration, is available to play or operate, the~~  
11 ~~play or operation of which, whether by reason of the skill~~  
12 ~~of the operator or application of the element of chance, or~~  
13 ~~both, may deliver or entitle the person playing or operating~~  
14 ~~the gambling device to receive cash, premiums, merchandise,~~  
15 ~~tokens, or anything of value, whether the payoff is made~~  
16 ~~automatically from the machine or in any other manner. This~~  
17 ~~definition does not apply to video gambling machines~~  
18 ~~authorized under part 6 of this chapter.~~  
19 ~~(30)(32) "Video gambling machine" is a gambling device~~  
20 ~~specifically authorized by part 6 of this chapter and the~~  
21 ~~rules of the department."~~

22 **Section 4.** Section 23-5-114, MCA, is amended to read:

23 "23-5-114. Department employees -- activities  
24 prohibited. (1) An employee of the department--a--former  
25 department--employee--during--the--first--365-days--following



LC 0113/01

LC 0113/01

1 ~~termination--of--employment,--or--any--peace--officer--or~~  
2 ~~prosecutor~~ directly involved with the prosecution,  
3 investigation, regulation, or licensing of gambling, as  
4 designated by the attorney general, may not:  
5     ~~{+}{a}~~ serve as an officer or manager of a corporation  
6 business or organization, other than a nonprofit corporation  
7 or organization, that conducts a gambling activity, other  
8 than as an officer of a nonprofit organization;

9     ~~{2}--receive--or--share--in--directly--or--indirectly--any~~  
10 ~~profit--of--a--gambling--activity--regulated--by--the--department~~  
11     ~~(b)~~ be employed by a licensed operator in a capacity  
12 that requires assisting in conducting a gambling activity  
13 regulated under parts 1 through 6 of this chapter or that  
14 requires maintaining records for the licensed operator's  
15 gambling activity;

16     ~~{3}{c}~~ have a beneficial or pecuniary interest in a  
17 contract for the manufacture, lease, or sale of a gambling  
18 device, the conduct of a gambling activity, or the provision  
19 of independent consultant services in connection with a  
20 gambling activity; or

21     ~~(d)~~ participate in a gambling activity governed by  
22 parts 1 through 6 of this chapter, except in performing  
23 assigned employment duties. An employee may participate in a  
24 gambling activity governed by part 10 of this chapter or  
25 chapter 4.

1     ~~(2) The prohibitions in subsections (1)(a) and (1)(b)~~  
2 ~~apply to a former department employee during the first year~~  
3 ~~following termination from employment with the department if~~  
4 ~~the employee was directly involved with the prosecution,~~  
5 ~~investigation, regulation, or licensing of gambling~~  
6 ~~immediately before termination."~~

7     **Section 5.** Section 23-5-115, MCA, is amended to read:

8     ~~"23-5-115. Powers and duties of department --~~  
9 ~~licensing. (1) The department shall administer the~~  
10 ~~provisions of parts 1 through 6 of this chapter.~~

11     ~~(2) The department shall adopt rules to administer and~~  
12 ~~implement parts 1 through 6 of this chapter.~~

13     ~~(3) The department shall provide licensing procedures,~~  
14 ~~prescribe necessary application forms, and grant or deny~~  
15 ~~license applications.~~

16     ~~(4) The department shall prescribe recordkeeping~~  
17 ~~requirements for licensees, provide a procedure for~~  
18 ~~inspection of records, provide a method for collection of~~  
19 ~~taxes, and establish penalties for the delinquent reporting~~  
20 ~~and payment of required taxes.~~

21     ~~(5) The department may suspend, revoke, deny, or place~~  
22 ~~a condition on a license issued under parts 1 through 6 of~~  
23 ~~this chapter.~~

24     ~~(6) [a] The department may not make public or otherwise~~  
25 ~~disclose information obtained in the application or tax~~

*Record, and  
Insert as (iv), lines  
16-24, page 11, of  
SB 427*

1 reporting processes, except for general statistical  
2 reporting or studies and as provided in subsection (6)(b).

3 (b) The department may disclose the following  
4 information from a license or permit application:

5 (i) the applicant's name;  
6 (ii) the address of the <sup>business</sup> establishment where the gambling  
7 activity is to be conducted; <sup>under the license or permit</sup>

8 (iii) the name of each person having an ownership  
9 interest in the <sup>business</sup> establishment; and

10 (iv) the types of permits requested by the applicant; and  
11 (7) The department shall assess, collect, and disburse  
12 any fees, taxes, or charges authorized under parts 1 through  
13 6 of this chapter."

14 Section 6. Section 23-5-123, MCA, is amended to read:  
15 "23-5-123. Disposal of money confiscated by reason of  
16 violation of gambling laws. All fines, penalties,  
17 forfeitures, and confiscated money collected by criminal,  
18 civil, or administrative process for a violation of a  
19 provision of parts 1 through 6 of this chapter or a rule of  
20 the department must be deposited--one-half--in-the-state  
21 general-fund-and-one-half--in-the-general-fund-of-the-county  
22 in-which-the-violation-occurred distributed as follows:

23 (1) Funds collected through a criminal proceeding must  
24 be distributed according to 3-10-601 or 46-18-235.

25 (2) One-third of the funds collected through a civil or

1 administrative proceeding must be deposited in the state  
2 <sup>general</sup> special revenue fund account maintained for funds used by  
3 the department in administering parts 1 through 6 of this  
4 chapter and related rules and may be used by the department  
5 to administer parts 1 through 6 of this chapter and related  
6 rules. The remainder must be distributed to the county  
7 treasurer or the clerk, financial officer, or treasurer of  
8 the city or town in which the violation occurred for deposit  
9 in the county or municipal treasury. A county is not  
10 entitled to a penalty payment if the violation occurred in  
11 an incorporated city or town within the county."

12 Section 7. Section 23-5-136, MCA, is amended to read:

13 "23-5-136. Injunction and other remedies. (1) If a  
14 person has engaged or is engaging in an act or practice  
15 constituting a violation of a provision of parts 1 through 6  
16 of this chapter or a rule or order of the department, the  
17 department may:

18 (a) issue a temporary order to cease and desist from  
19 the gambling activity, act, or practice for a period not to  
20 exceed 60 days;

21 (b) following notice and an opportunity for hearing,  
22 and with the right of judicial review, under the Montana  
23 Administrative Procedure Act:

24 (i) issue a permanent order to cease and desist from  
25 the act or practice, which order remains in effect pending

LC 0113/01

LC 0113/01

## 1 judicial review;

2 (ii) place a licensee on probation;

3 (iii) suspend for a period not to exceed 180 days a  
 4 license or permit for the gambling activity, device, or  
 5 enterprise involved in the act or practice constituting the  
 6 violation;

7 (iv) revoke a license or permit for the gambling  
 8 activity, device, or enterprise involved in the act or  
 9 practice constituting the violation;

10 (v) impose a civil penalty not to exceed \$10,000 for  
 11 each violation, whether or not the person is licensed by the  
 12 department; and

13 (vi) impose any combination of the penalties contained  
 14 in this subsection (1)(b); and

15 (c) bring an action in district court for relief  
 16 against the act or practice. The department may not be  
 17 required to post a bond. On proper showing, the court may:

18 (i) issue a restraining order, a temporary or permanent  
 19 injunction, or other appropriate writ;

20 (ii) suspend or revoke a license or permit; and

21 (iii) appoint a receiver or conservator for the  
 22 defendant or the assets of the defendant.

23 (2) The department may issue a warrant for distraint  
 24 against an operator who fails to pay a civil penalty imposed  
 25 under subsection (1) or the tax imposed under 23-5-610. The

1 department may issue the warrant for the amount of the  
 2 unpaid penalty or for the amount of the unpaid tax, plus  
 3 penalty and accumulated interest on the tax, and shall  
 4 follow the procedures provided in 15-1-701 through 15-1-708.

5 <sup>†27(3)</sup> (a) A civil penalty imposed under this section  
 6 must be collected by the department and deposited in the  
 7 state's general fund as required by distributed as provided  
 8 in 23-5-123. The local government portion of the penalty  
 9 payment is statutorily appropriated to the department, as  
 10 provided in 17-7-502, for deposit to the county or municipal  
 11 treasury.

12 (b) If a person fails to pay the civil penalty, the  
 13 amount due is a lien on the person's licensed premises and  
 14 gambling devices in the state and may be recovered by the  
 15 department in a civil action."

16 Section 8. Section 23-5-152, MCA, is amended to read:

17 \*23-5-152. Possession of illegal gambling device or  
 18 conducting illegal gambling enterprise prohibited --  
 19 exception ~~exceptions~~ (1) Except as provided in 23-5-153 and  
 20 subsection ~~subsections~~ (2) through (4) of this section, it

21 is a misdemeanor punishable under 23-5-161 for a person to  
 22 purposely or knowingly: <sup>with intent to use in a</sup>  
 23 <sup>gambling activity</sup> ~~that is not legal,~~

24 (a) have in his possession <sup>or under the control</sup> of  
 25 purposely or knowingly permit to be placed, maintained, or  
 kept in any room, space, enclosure, or building owned,

use in a gambling <sup>-30-</sup>  
 activity that is not legal, or

(4) An illegal gambling device may not be purposely or knowingly possessed in a premises licensed for or eligible for a license for any type of gambling unless it has been made inoperable for any type of illegal gambling. Violation of this subsection is a misdemeanor.

LC 0113/01  
Repeal 23-5-153

1 leased, or occupied by him or under his management for  
2 control an illegal gambling device; or  
3 (b) operate an illegal gambling enterprise.  
4 (2) This section Subsection (1) does not apply to a  
5 public officer or to a person coming into possession of an  
6 illegal gambling device in or by reason of the performance  
7 of an official duty and holding it to be disposed of  
8 according to law.

9 (3) (a) The department may adopt rules to license  
10 persons to manufacture gambling devices that are not legal  
11 for public play in the state and are manufactured only for  
12 export from the state.

13 (b) A person may not manufacture or possess an illegal  
14 gambling device for export from the state without having  
15 obtained a license from the department. The department may  
16 charge an administrative fee for the license that is  
17 commensurate with the cost of issuing the license.

18 (4) An illegal gambling device may be possessed or  
19 located in a public museum owned and operated by the state,  
20 a county or a city for display purposes only and not for  
21 operation.

Section 9. Section 23-5-154, MCA, is amended to read:

22 "23-5-154. Soliciting or persuading persons to play  
23 participation in illegal gambling device activity  
24 prohibited. A person who purposely or knowingly advertises  
25

keep circled material

1 for or solicits another person to play or engage in the  
2 participate in an illegal gambling enterprise or use of an  
3 illegal gambling device is guilty of a misdemeanor and is  
4 punishable under 23-5-161."

Section 10. Section 23-5-158, MCA, is amended to read:

6 "23-5-158. Minors not to participate -- penalty --  
7 exception. (1) A Except as provided in subsection (3), a  
8 person may not purposely or knowingly allow a person under  
9 18 years of age to participate in a gambling activity.

10 (2) A person who violates this section subsection (1)  
11 is guilty of a misdemeanor and must be punished in  
12 accordance with 23-5-161.

13 (2) Except as provided in subsection (3), a person  
14 under 18 years of age may not purposely or knowingly  
15 participate in a gambling activity. A person who violates  
16 this subsection is subject to a civil penalty not to exceed  
17 \$50, if the proceedings for violating this subsection are  
18 held in a justice's, municipal, or city court. If the  
19 proceedings are held in a youth court, the offender must be  
20 treated as an alleged youth in need of supervision as  
21 defined in 41-5-103. The youth court may enter its judgment  
22 under 41-5-323.

23 (3) A person under 18 years of age may sell or buy  
24 tickets for or receive prizes from a raffle conducted in  
25 compliance with 23-5-413 if proceeds from the raffle, minus

Insert 23-5-153 (antique slots) as  
amended by HB 958, but w/o the  
1-1-65 cutoff, and with the  
current law cutoff,

LC 0113/01

1 administrative expenses and prizes paid, are used to support  
2 charitable activities, scholarships or educational grants,  
3 or community service projects."

4 **Section 11.** Section 23-5-162, MCA, is amended to read:  
5 "23-5-162. Criminal liabilities -- felony. (1) A person  
6 who purposely or knowingly violates a provision of parts 1  
7 through 6 of this chapter, the punishment for which is a  
8 felony, may upon conviction be fined not more than \$50,000  
9 or imprisoned for not more than 10 years, or both, for each  
10 violation.

11 (2) In addition to any penalty imposed under subsection  
12 (1), the department shall revoke all licenses or permits  
13 issued to the person under parts 1 through 6 of this chapter  
14 and may not issue the person another license or permit."

15 **Section 12.** Section 23-5-176, MCA, is amended to read:

16 "23-5-176. Qualifications for licensure. (1) A person  
17 whom the department determines is qualified to receive a  
18 license under the provisions of this chapter, except for the  
19 provisions of part 10, may, based on information available  
20 to, required by, or supplied to the department under  
21 department rules, be issued a state gambling license.

22 (2) The department shall issue a license unless the  
23 department can demonstrate that the applicant is:

24 (a) is a person whose prior financial or other  
25 activities or criminal record:

LC 0113/01

1 (i) poses a threat to the public interest of the state  
2 or;

3 (ii) poses a threat to the effective regulation and  
4 control of gambling; or

5 (iii) creates a danger of illegal practices,  
6 methods, or activities in the conduct of gambling or in the  
7 carrying on of the business and financial arrangements  
8 incidental to gambling; or

9 (b) has been convicted of a felony offense of a  
10 gambling related misdemeanor within 5 years of the date of  
11 application, is awaiting trial on charges of committing a  
12 felony offense or is on probation, parole, or deferred  
13 prosecution for committing a felony offense; or

14 (b)(c) is receiving a substantial amount of financing  
15 for the proposed operation from an unsuitable source. A  
16 lender or other source of money or credit that the  
17 department finds to meet the provisions of subsection (2)(a)  
18 may be considered an unsuitable source.

19 (3) The provisions of 37-1-203 and 37-1-205 do not  
20 apply to licensing determinations made under this section."

21 **Section 13.** Section 23-5-177, MCA, is amended to read:  
22 "23-5-177. Operator of gambling establishment --  
23 license -- fee. (1) It is a misdemeanor for a person who is  
24 not licensed by the department as an operator to make  
25 available to the public for play a gambling device or

1 gambling enterprise for which a permit must be obtained from  
2 the department.

3 (2) An operator's license must include the following  
4 information:

5 (a) a description of the premises upon which the  
6 gambling will take place;

7 (b) the operator's name;

8 (c) a description of each gambling device or card game  
9 table licensed for which a permit has been issued to the  
10 operator by the department for play upon the premises,  
11 including the type of game and license permit number or  
12 decay-number for each licensed game; and

13 (d) any other relevant information determined necessary  
14 by the department.

15 (3) Regardless of the number of on-premises alcoholic  
16 beverage licenses issued for a premises, the department may  
17 issue only one operator's license for the premises. The  
18 operator's license must be issued annually along with all  
19 other licenses permits for gambling devices or games  
20 licensed issued to the operator.

21 (4) The operator's license must be updated each time a  
22 gambling device or card game table license permit is newly  
23 issued or the device or game is removed from the premises.

24 (5) The department may not charge a fee for the  
25 issuance of an operator's license.

1 (6) The operator's license must be prominently  
2 displayed upon the premises for which it is issued."

### 3 NEW SECTION. Section 14. Local government prohibition.

4 (1) Except as provided in subsection (2), the department may  
5 not issue an operator's license under 23-5-177 to a city,  
6 county, or other political subdivision of the state or to an  
7 individual or entity who has leased an alcoholic beverage  
8 license from a city, county, or other political subdivision.

9 (2) An operator's license may be issued to a city,  
10 county, or other political subdivision that has obtained a  
11 publicly owned golf course beer and wine license under  
12 16-4-109 or an airport all beverage license under 16-4-208  
13 or to an individual or entity who has leased the license  
14 from a city, county, or other political subdivision.

### 15 NEW SECTION. Section 15. Seasonal operator's license

16 and permits. (1) The department may issue a seasonal  
17 operator's license to a person who chooses to operate a  
18 gambling device or gambling enterprise on his premises for 6  
19 consecutive months or less during any 12-month period. The  
20 license expires 6 months after the date it is issued by the  
21 department.

22 (2) A permit issued for a gambling device or gambling  
23 enterprise made available for public play under a seasonal  
24 operator's license expires on the same date as the seasonal  
25 operator's license. The permit fee is one-half of the annual

LC 0113/01

1 fee charged for that gambling device or gambling enterprise  
2 and may not be prorated. The fee must be distributed in the  
3 same proportion and in the same manner as the annual fee.  
4 (3) The provisions of 23-5-177 apply to the issuance of  
5 a seasonal operator's license and permits.

Section 16. Section 23-5-306, MCA, is amended to read:

23-5-306. Live card game table -- permit -- fees --  
disposition of fees. (1) (a) A person who has been granted  
an operator's license under 23-5-177 and a license to sell  
alcoholic beverages for consumption on the premises may be  
granted an annual permit for the placement of live card game  
tables.

(b) The department may issue an annual permit for the  
placement of live card game tables to a person operating a  
to sell alcoholic beverages for consumption on  
premises not licensed under 23-5-177 if: the premises

(i) if one or more live card game tables were legally  
operated on a the premises on January 15, 1989; and--the  
premises--were--not--on--that--date--licensed--under--16-4-401(2)  
but;

(ii) the premises were licensed on that date to sell  
food, cigarettes, or any other consumable product;--an  
operator's license--and--an--annual--permit--for--the--placement--of  
live--card--game--tables--may--be--granted--to--the--person--who  
legally--operated--the--premises--on--January--15--1989;:

(iii) the person has been granted an operator's license

except that a live card game table  
was not held in a building  
operated on the premises for a  
period, not exceeding 5 years,  
during which the persons  
referred to in subsection  
(1)(4)(iv)(B) held a security  
interest in the premises LC 0113/01

1 under 23-5-177; and

2 (iv) at the time of application for the permit:

3 (A) the person has continuously operated a live card  
game table on the premises since January 15, 1989; and

4 (B) a majority of the natural persons holding a  
financial interest in the business operated on the premises  
remains the same as on January 15, 1989, except as provided  
in subsection (1)(c).

5 (c) If the spouse or a child of a person granted a  
permit under subsection (1)(a) acquires controlling  
financial interest in the business operated on the premises  
and obtains an operator's license under 23-5-177, the  
department may grant a permit and annually renew the permit  
if the spouse or child maintains controlling financial  
interest in the business. A person seeking a permit under  
this subsection (c) shall submit to the department  
sufficient proof of his relationship to the former  
permit holder.

6 (2) (a) The Except as provided in [sections 15 and 31],  
an operator who offers the game of panguingue or poker shall  
pay the following annual permit fee in lieu of taxes for  
each live card game table operated-in-a-licensed-operator's  
premises--may--not--be--prorated--and--must--be used to conduct  
panguingue or poker:

7 (i) \$250 for the first table; and

(b)(ii) \$500 for each additional table.

(b) The fee imposed in subsection (2)(a) must be prorated on a quarterly basis but may not be prorated to allow a permit to expire before June 30. The department may not grant a refund if a live card game table ceases operation before the permit expires.

(c) The department shall retain for administrative purposes \$100 of the fee collected under this part subsection (2)(a) for each live card game table.

(d) The department shall forward on a quarterly basis the remaining balance of the fee collected under subsection (2)(a) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the live card game table is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from fees assessed on live card game tables located in incorporated cities and towns within the county. The local government portion of this fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury.

(3) A permit fee may not be imposed under this section on an operator who does not offer the game of panguingue or poker."

Section 17, section 23-5-306, MCA, is amended to read:  
"23-5-306. Live card game table permit fees

disposition of fees. (1) (a) A person who has been granted an operator's license under 23-5-177 and a license to sell alcoholic beverages for consumption on the premises may be granted an annual permit for the placement of live card game tables.

(b) The department may issue an annual permit for the placement of live card game tables for conducting games authorized in 23-5-311, except blackjack, to a person to sell alcoholic beverages for consumption operating a premises not licensed under 16-4-401(2) if: <sup>permitter</sup>

(i) if one or more live card game tables were legally operated on the premises on January 15, 1989; and the premises were not on that date; ~~it is issued under 16-4-401(2) but.~~

(ii) the premises were licensed on that date to sell food, cigarettes, or any other consumable product; and operator's license and an annual permit for the placement of live card game tables may be granted to the person who legally operated the premises on January 15, 1989; and

(iii) the person has been granted an operator's license under 23-5-177; and

(iv) at the time of application for the permit:

(A) the person has continuously operated a live card game table on the premises since January 15, 1989; and

(B) the natural persons who together hold the majority financial interest in the business operated on the premises



LC 0113/01

1 are the same as on January 15, 1989, except as provided in  
2 subsection (1)(c).

3 (c) If the spouse or a child of a person granted a  
4 permit, under subsection (1)(b) acquires controlling  
5 financial interest in the business operated on the premises  
6 and obtains an operator's license under 23-5-177, the  
7 department may grant a permit and annually renew the permit  
8 in the spouse or child maintains controlling financial  
9 interest in the business. A person seeking a permit under  
10 this subsection (c) shall submit to the department  
11 sufficient proof of his relationship to the former  
12 permit holder.

13 (2) (a) The Except as provided in [sections 15 and 31]  
14 an operator who offers the game of panguingue or poker shall  
15 pay the following annual permit fee in lieu of taxes for  
16 each live card game table operated in a licensed operator's  
17 premises may not be prorated and must be used to conduct  
18 panguingue or poker:

19 (a)(i) \$250 for the first table; and

20 (b)(ii) \$500 for each additional table.

21 (b) The fee imposed in subsection (2)(a) must be  
22 prorated on a quarterly basis but may not be prorated to  
23 allow a permit to expire before June 30. The department may  
24 not grant a refund if a live card game table ceases  
25 operation before the permit expires.

LC 0113/01

1 (3)(c) The department shall retain for administrative  
2 purposes \$100 of the fee collected under this part  
3 subsection (2)(a) for each live card game table.

4 (4)(d) The department shall forward on a quarterly  
5 basis the remaining balance of the fee collected under  
6 subsection (2)(a) to the treasurer of the county or the  
7 clerk, finance officer, or treasurer of the city or town in  
8 which the live card game table is located for deposit to the  
9 county or municipal treasury. A county is not entitled to  
10 proceeds from fees assessed on live card game tables located  
11 in incorporated cities and towns within the county. The  
12 local government portion of this fee is statutorily  
13 appropriated to the department, as provided in 17-7-502, for  
14 deposit to the county or municipal treasury.

15 (3) A permit fee or tax may not be imposed under this  
16 section on an operator who does not offer the game of  
17 panguingue or poker.

18 Section 18. Section 23-5-308, MCA, is amended to read:

19 "23-5-308. Card game dealers -- license. (1) A Except  
20 as provided in [section 31], a person may not deal cards in  
21 a live card game of panguingue or poker without being  
22 licensed annually by the department.

23 (2) The fee for the first year in which the license is  
24 effective is \$75, and the annual renewal fee is \$25. The fee  
25 may not be prorated.

1 (3) The department shall retain for administrative  
2 purposes the license fee charged for the issuance of a  
3 dealer's license.

4 (4) A licensed dealer shall have on his person, and  
5 display upon request, his dealer's license when he is  
6 working as a dealer.

7 (5) The department shall adopt rules to implement  
8 temporary licensing procedures until a permanent license is  
9 issued to a dealer. The rules must provide that a temporary  
10 license may be obtained at the place where a person locally  
11 applies for a driver's license and that the receipt received  
12 upon mailing an application for a permanent license by  
13 certified mail, return receipt requested, also constitutes a  
14 temporary license. The department may not assess a fee for  
15 the temporary license.

16 ~~Section 19. Section 23-5-308, MCA, is amended to read:~~  
17 ~~"23-5-308. Card game dealers -- license. (1) A Except~~  
18 ~~as provided in [section 31], a person may not deal cards in~~  
19 ~~a live card game of black-jack, panguingue, or poker without~~  
20 ~~being licensed annually by the department.~~

21 (2) The fee for the first year in which the license is  
22 effective is \$75, and the annual renewal fee is \$25. The fee  
23 may not be prorated.

24 (3) The department shall retain for administrative  
25 purposes the license fee charged for the issuance of a

1 dealer's license.

2 (4) A licensed dealer shall have on his person, and  
3 display upon request, his dealer's license when he is  
4 working as a dealer.

5 (5) The department shall adopt rules to implement  
6 temporary licensing procedures until a permanent license is  
7 issued to a dealer. The rules must provide that a temporary  
8 license may be obtained at the place where a person locally  
9 applies for a driver's license and that the receipt received  
10 upon mailing an application for a permanent license by  
11 certified mail, return receipt requested, also constitutes a  
12 temporary license. The department may not assess a fee for  
13 the temporary license."

14 **Section 20.** Section 23-5-309, MCA, is amended to read:

15 "23-5-309. Presence and control of dealer. (1) A Except  
16 as provided in [section 31], a live card game may not must  
17 be played except on a live card game table in--the--presence  
18 and--under--the-control-of-a-licensed-dealer on the premises  
19 of a licensed operator.

20 (2) In addition to meeting the requirements of  
21 subsection (1), a live card game of panguingue or poker must  
22 be played in the presence and under the control of a  
23 licensed dealer."

24 **Section 21.** Section 23-5-309, MCA, is amended to read:

25 "23-5-309. Presence and control of dealer. (1) A Except

LC 0113/01

LC 0113/01

1 as provided in [section 31], a live card game may ~~not~~ must  
 2 be played ~~except~~ on a live card game table in the presence  
 3 and under the control of a licensed dealer on the premises  
 4 of a licensed operator.

5 (2) In addition to meeting the requirements of  
 6 subsection (1), a live card game of blackjack, panguingue,  
 7 or poker must be played in the presence and under the  
 8 control of a licensed dealer."

9 **Section 22.** Section 23-5-311, MCA, is amended to read:

10 "23-5-311. Authorized card games. (1) The card games  
 11 authorized by this part are and are limited to the card  
 12 games known as blackjack, bridge, cribbage, hearts,  
 13 panguingue, pinochle, pitch, poker, rummy, solo, and whist.  
 14 (2) A person may conduct or participate in a live card  
 15 game or make a live card game table available for public  
 16 play of a live card game only if it is specifically  
 17 authorized by this part and described by department rules.

18 (3) This part does not apply to games simulated on  
 19 electronic video gambling machines authorized under part 6  
 20 of this chapter."

21 **Section 23.** Section 23-5-312, MCA, is amended to read:

22 "23-5-312. Prizes not to exceed ~~three~~ <sup>eight</sup> hundred dollars.

23 A Except as provided in [section 31], a prize for an  
 24 individual live card game may not exceed the value of ~~\$200~~ <sup>\$800</sup>.  
 25 Games, and games may not be combined in any manner so as to

1 increase the value of the ultimate prize awarded."

2 **Section 24.** Section 23-5-313, MCA, is amended to read:

3 "23-5-313. Rules of play to be posted -- rake-off  
 4 approved -- exception -- certain participant fees  
 5 prohibited. (1) Rules governing the conduct of each game  
 6 must be prominently posted within the sight of the players  
 7 at a live card game table on the premises of a licensed  
 8 operator. The rules must include notice of the maximum  
 9 percentage rake-off, if any, and must require that the  
 10 person taking the rake-off do so in an obvious manner.

11 (2) An operator conducting a card game other than  
 12 blackjack, panguingue, or poker may not take a rake-off or  
 13 collect an entrance or administrative fee or any other form  
 14 of remuneration from a player."

15 ~~NEW SECTION. Section 25. Limitation on blackjack~~  
 16 ~~tables -- permit fee. (1) An operator granted a live card~~  
 17 ~~game table permit under 23-5-306 may place a maximum of five~~  
 18 ~~blackjack tables on his premises.~~

19 (2) The operator shall pay to the department a permit  
 20 fee of \$1,000 for each blackjack table placed on his  
 21 premises. The department shall retain the permit fee for  
 22 administrative purposes.

23 ~~NEW SECTION. Section 26. Tax on drop -- records --~~  
 24 ~~quarterly statement and payment -- distribution. (1) An~~  
 25 ~~operator issued a live card game table permit under 23-5-306~~

1 who operates one or more blackjack tables shall pay to the  
2 department a quarterly tax equal to 1% of the nominal value  
3 of the drop from the operation of each blackjack table on  
4 his premises.

5 (2) An operator shall keep a record of the drop in the  
6 form required by the department. At any time during the  
7 operator's business hours, the department may inspect the  
8 records and any activity related to the game.

9 (3) An operator shall, within 15 days after the end of  
10 each quarter, complete and deliver to the department a  
11 statement showing the total drop from each blackjack table  
12 operated by him and the total tax due for the preceding  
13 quarter. This statement must contain any other relevant  
14 information required by the department.

15 (4) The department shall retain one-half of the tax  
16 collected under this section for administrative purposes. Of  
17 the remaining amount, the department shall forward one-third  
18 to the general fund and two-thirds to the treasurer of the  
19 county or clerk, finance officer, or treasurer of the city  
20 or town in which the blackjack table is located. A county is  
21 not entitled to the local government share of taxes from a  
22 blackjack table located in an incorporated city or town. The  
23 local government share of the tax collected under this  
24 section is statutorily appropriated to the department, as  
25 provided in 17-7-502, for deposit in the county or municipal

1 treasury.

## 2 NEW SECTION. Section 27. Equipment required for

3 blackjack tables. Each blackjack table placed on an  
4 operator's premises must be equipped with a double-locking  
5 or triple-locking removable metal box, commonly known as a  
6 drop box, into which is deposited cash received from players  
7 for the purchase of chips. A table must also be equipped  
8 with one of the following devices, which must be approved by  
9 the department:

10 (1) a device, commonly known as a dealing shoe, from  
11 which cards are dealt and which holds at least two but no  
12 more than six shuffled decks of cards; or

13 (2) a mechanical or electronic shuffling device that  
14 simultaneously shuffles at least two but no more than six  
15 decks of cards and provides randomly selected cards for play  
16 without dealer participation in the shuffling process.

## 17 NEW SECTION.

18 Section 28. Cash wagers and cash  
19 gratuities prohibited -- pooling of gratuities required. (1)  
20 A wager made by a player at a blackjack table may be made in  
21 approved chips only.

22 (2) A gratuity given to a dealer by a player at a  
23 blackjack table may be paid in chips only. Chips received by  
24 dealers as gratuities must be pooled and distributed in  
25 proportion to the number of hours worked by each dealer.

## NEW SECTION. Section 29. Limit on hands played

LC 0113/01

LC 0113/01

1 ~~Simultaneously -- maximum initial wager. (1) A player may~~  
 2 ~~not play more than two spots at a blackjack table at one~~  
 3 ~~time.~~

4 (2) The maximum amount of the initial wager made by a  
 5 player during a hand of blackjack is \$10.

#### 6 NEW SECTION.

7 Section 30. Rules. The department shall  
 8 adopt rules for administering [sections 25 through 30]. The  
 9 rules must address but need not be limited to:

10 (1) physical characteristics of a blackjack table, drop  
 11 box, dealing shoe, cards, and chips;

12 (2) procedures for converting cash to chips at a  
 13 blackjack table, including procedures for obtaining chips to  
 14 ensure the integrity of the tax provided for in [section  
 15 26];

16 (3) procedures for transporting a drop box and for  
 17 counting drop box cash;

18 (4) recordkeeping and tax reporting requirements;

19 (5) the method for dealing cards. The rules must  
 20 require cards to be dealt face up to players and prohibit  
 21 players from touching the cards.

22 (6) play of the game. The rules must:

23 (i) permit splitting, doubling down, tip betting, and  
 24 insurance betting;

25 (ii) prohibit the dealer from receiving another card if  
 the count of his hand equals 17 or greater; and

1 ~~(iii) allow the player to retain his wager if the count~~  
 2 ~~of the dealer's hand and player's hand is identical.~~

#### 3 NEW SECTION.

4 Section 31. Card game tournaments --

5 application -- fees -- requirements. (1) Subject to the  
 6 department's approval, a licensed operator who has a permit  
 7 for placing at least one live card game table on his  
 8 premises may conduct up to six live card game tournaments a  
 9 year on his premises. Each tournament may be conducted for a  
 10 maximum of 10 consecutive days. If an operator conducts more  
 11 than one tournament a year, at least 7 days must lapse  
 12 between the conclusion of one tournament and the beginning  
 13 of the next tournament.

14 (2) (a) At least 10 days before the start of a  
 15 tournament, the operator shall submit to the department an  
 16 application for a tournament permit. The permit application  
 17 must be accompanied by a \$10 fee. The department shall  
 18 retain the fee for administrative purposes.

19 (b) If a tournament is to be conducted on the premises  
 20 of more than one licensed operator, each operator shall  
 21 submit a permit application and fee as provided in  
 22 subsection (2)(a). The permit is applied toward each  
 23 operator's annual six-tournament limit.

24 (3) Permits for placement of additional live card game  
 25 tables as provided in 23-5-306 are not required for  
 additional tables authorized under a tournament permit.

The face value of the chips used does not govern the value of the pot awarded at the end of the tournament.

LC 0113/01

(4) Tournament participants must be provided with a copy of the tournament rules before the start of the tournament. A copy of the rules must also be posted in a conspicuous location in each area where the tournament is conducted.

(5) A person must be present on the premises during the tournament to oversee the conduct of the card games and to settle disputes among players. This person need not be a dealer licensed under 23-5-308.

(6) A licensed operator may charge a tournament participant an entry fee, which may include a fee to cover expenses incurred in conducting the tournament. A participant who has been eliminated from competition during the tournament may reenter the tournament by paying an additional fee if permitted to do so under the tournament's rules. A rake-off may not be taken during a card game.

(7) Prizes awarded during a tournament:

(a) ~~may exceed the prize limits provided for in~~ 23-5-307.

(b) are not limited to the total amount collected in entry or other fees; and

(c) must be awarded according to tournament rules.

(8) The provisions of this chapter and department rules governing live card games apply to live card games conducted as part of a tournament unless otherwise provided.

LC 0113/01

**Section 32.** Section 23-5-406, MCA, is amended to read:

**"23-5-406. Exempt charitable organizations and facilities.** (1) (a) An organization qualified for granted an exemption under 26 U.S.C. 501(c)(3) and, (c)(4), (c)(8), or (c)(19):

(i) on or before January 15, 1989, is exempt from the taxation--and--license-fees permit fee imposed by this part; An organization qualified for exemption under that section;

(ii) after that date January 15, 1989, is exempt from taxation--under--and--need-only pay one-half the license-fees under permit fee imposed by this part if the organization carries on gambling activities for no more than 60 days a calendar year and-if-the-

(b) An organization provided for in subsection (1)(a) shall:

(i) limit its live bingo and keno activities are limited to its main premises or place of operations and to events at other places operated by other charitable organizations or by a government unit or entity--the organization-shall;

(ii) comply with other statutes and rules relating to the operation of live bingo and keno or-rafties--a-qualified organization-shall; and

(iii) apply to the department for a cost-free permit to conduct charitable live bingo and or keno games or-rafties.

LC 0113/01

LC 0113/01

1 (2) A long-term care facility as defined in 50-5-101 or  
2 a retirement home or senior citizen center as defined in  
3 subsection (4) that has obtained an operator's license and a  
4 permit from the department to operate live bingo or keno is  
5 exempt from the permit fee imposed by this part if the  
6 facility:

7 (a) limits participation in live bingo and keno games  
8 to persons using the facility and their guests;

9 (b) limits live bingo or keno activities to its main  
10 premises or place of operation; and

11 (c) complies with other statutes and rules relating to  
12 the operation of live bingo and keno.

13 (3) The department may revoke or suspend the permit of  
14 a-qualified an organization or a facility provided for in  
15 subsection (1) or (2) if that, after investigation, the  
16 department determines that the organization or facility is  
17 contracting operating or has contracted with a nonqualified  
18 organization to-operate that is operating live bingo or  
19 keno-or-rafties in a predominantly commercial manner.

20 (4) For purposes of this section:

21 (a) "retirement home" means a building in which  
22 sleeping rooms without cooking facilities in each room are  
23 rented to three or more persons who are 60 years of age or  
24 older and who do not need skilled nursing care, intermediate  
25 nursing care, or personal care, as defined in 50-5-101; and

1 (b) "senior citizen center" means a facility operated  
2 by a nonprofit or governmental organization that provides  
3 services to senior citizens in the form of daytime or  
4 evening educational or recreational activities and does not  
5 provide living accommodations to senior citizens or sell  
6 food or beverages under a license furnished by the state.  
7 Services qualifying under this subsection (b) must be  
8 recognized in the state plan on aging adopted by the  
9 department of family services."

10 **Section 33.** Section 23-5-407, MCA, is amended to read:

11 "23-5-407. Live bingo or keno permit -- fees --  
12 disposition of fees. (1) A person who has been granted an  
13 operator's license may be granted an annual permit by the  
14 department to conduct live bingo or keno games on specified  
15 premises. The permit expires June 30 of each year.

16 (2) ~~The~~ Except as provided in [section 15], the permit  
17 fee for each of the premises in which a live bingo--or--<sup>bingo or</sup> keno  
18 game is conducted ~~may not be prorated and must be \$500~~ <sup>is</sup>  
19 ~~\$500~~ <sup>\$250</sup> ~~and may not be prorated~~ <sup>by a bingo or keno</sup>

20 ~~(3) Except as provided in [section 15], the permit fee~~  
21 ~~for each premises in which a live bingo game is conducted~~  
22 ~~is:~~

23 (a) \$250 if any game conducted by the operator has less  
24 than 50 players;

25 (b) \$1,500 if any game conducted by the operator has 50

1 or more players but less than 300 players; and

2 (c) \$3,000 if any game conducted by the operator has  
 3 300 or more players.

4 (4) A fee collected under this section must be prorated  
 5 on a quarterly basis but may not be prorated to allow a  
 6 permit to expire before June 30. The department may not  
 7 grant a refund if a live bingo or keno game ceases operation  
 8 before the permit expires.

9 (3)(5) The department shall retain the permit fee for  
 10 administrative costs purposes."

11 **Section 34.** Section 23-5-412, MCA, is amended to read:

12 "23-5-412. Card prices and prizes -- exception. (1) The  
 13 except as provided in subsection (3):

14 (a) the price for an individual bingo or keno card may  
 15 not exceed 50 cents;--Bingo--prizes may be paid in either  
 16 tangible personal property or cash;--A;

17 (b) a prize may not exceed the value of \$100 for each  
 18 individual bingo award or \$800 for each keno card;--it; and

19 (c) it is unlawful to, in any manner, combine any  
 20 awards so as to increase the ultimate value of the award.

21 (2) Bingo and keno prizes may be paid in either  
 22 tangible personal property or cash.

23 (3) A variation of the game of keno, as approved by the  
 24 department, in which a player selects three or more numbers  
 25 and places a wager on various combinations of these numbers

1 is permissible if:

2 (a) no more than 50 cents is wagered on each  
 3 combination of numbers; and

4 (b) a winning combination does not pay off more than  
 5 \$800.

6 (4) A player may give the a keno caller a card with  
 7 instructions on the card to play that card and its marked  
 8 numbers for up to the number of successive games that the  
 9 house allows and that the player has indicated on the card,  
 10 upon payment of the price per game times the number of  
 11 successive games indicated. The player shall remain on the  
 12 house premises until the card is played or withdrawn. The  
 13 caller shall keep the card until the end of the number of  
 14 games indicated, and the department may, rule provide that  
 15 at that time the caller shall pay the player any prizes  
 16 won."

17 **Section 35.** Section 23-5-413, MCA, is amended to read:

18 "23-5-413. Raffle prizes -- permits -- exception. (1)  
 19 Raffle prizes may not exceed the value of \$5,000--for--each  
 20 individual--raffle ticket--it is unlawful to, in any manner,  
 21 combine any awards so as to increase the ultimate--value--of  
 22 the prize awarded for each ticket.

23 (2)(1) (a) A Except as provided in subsection (1)(b), a  
 24 separate permit must be issued by the board of county  
 25 commissioners for each raffle conducted within its



LC 0113/01

LC 0113/01

1 jurisdiction. The permit must be issued before the raffle  
2 may be conducted. The board of county commissioners may not  
3 charge a permit fee or an investigative fee for a raffle  
4 conducted by a religious corporation sole or nonprofit  
5 organization if it presents sufficient documentation of its  
6 nonprofit status.

7 (b) If tickets for a raffle are to be sold in more than  
8 one county, a permit must be obtained only in the county  
9 where the winners of the raffle are to be selected.

10 (2) Except for a religious corporation sole or  
11 nonprofit organization, a person or organization conducting  
12 a raffle shall own all prizes to be awarded as part of the  
13 raffle before the sale of any tickets.

14 (3) A person who has conducted a raffle must submit an  
15 accounting to the board of county commissioners within 30  
16 days following the completion of the raffle.

17 (4) The sale of raffle tickets authorized by this part  
18 is restricted to events and participants within the  
19 geographic confines of the state.

20 (5) The value of a prize awarded for an individual  
21 ticket for a raffle conducted by a person or an  
22 organization, other than a religious corporation sole or  
23 nonprofit organization may not exceed \$5,000. The prize may  
24 be in the form of cash, other intangible personal property,  
25 tangible personal property, or real property. Prizes may not

1 be combined in any manner so as to increase the ultimate  
2 value of the prize awarded for each ticket.

3 (3) ~~(a) The restrictions of subsection (1) do not apply~~  
4 ~~to a raffle conducted by a~~

5 (6) (a) In addition to complying with the requirements  
6 of subsections (1) through (5), a nonprofit corporation,  
7 religious corporation sole or other nonprofit organization  
8 as defined in 23-5-112 if the corporation or organization is  
9 permitted by the board of county commissioners to conduct  
10 the raffle, the board of county commissioners may not charge  
11 a permit fee or an investigative fee for a raffle conducted  
12 by a nonprofit veterans organization.

13 (b) ~~The nonprofit organization or corporation seeking~~  
14 ~~permission under subsection (3) shall apply provide the~~  
15 ~~following information to the board of county commissioners~~  
16 ~~when applying for the a raffle permit and provide the~~  
17 ~~following information:~~

18 (i) the cost and number of raffle tickets to be sold;

19 (ii) the charitable purposes the proceeds of the raffle  
20 are intended to benefit; and

21 (iii) the proposed prizes and their value.

22 (c) ~~A veterans organization seeking exemption from the~~  
23 ~~permit fee or an investigative fee shall present evidence of~~  
24 ~~the organization's nonprofit status to the board of county~~  
25 ~~commissioners.~~

(d)(b) The proceeds from the sale of the raffle tickets for a raffle conducted by a religious corporation sole or a nonprofit organization may be used only for charitable purposes or to pay for prizes. The raffle prize must be in tangible personal property only and not in money, cash, stock, bonds, evidence of indebtedness, or other intangible personal property. None of the proceeds proceeds may not be used for the administrative cost of conducting the raffle.

(c) The value of a prize awarded for an individual ticket for a raffle conducted by a religious corporation sole or nonprofit organization may equal or exceed \$5,000 if the prize is in the form of tangible personal property. If the value of the prize is less than \$5,000, the prize may be in the form of cash, other intangible personal property, tangible personal property, or real property.

**Section 36.** Section 23-5-501, MCA, is amended to read:

"23-5-501. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(i) "Nonprofit organization" means a charitable religious, scholastic, educational, veterans', fraternal, beneficial, civic, or service organization, other than one established for the purpose of conducting or participating in a sports pool;

(j) "Sports pool" means a card divided into

squares or spaces with the names of the participants in the pool written within such squares or spaces, for gambling activity, other than an activity governed under chapter 4 or chapter 5, part 2 of this title in which consideration in a person wagers money is paid by the person playing for each square or space for the chance to win money or other items of value based on any the outcome of a sports event or series of sports events wherein the participants competitors in such the sports event or series of sports events are natural persons or animals "

**NEW SECTION. Section 37. Sports pool design** -- department rules. (1) A sports pool must be designed to ensure that:

(a) there is at least one winner from among the participants in the pool; and

(b) each participant has an equal chance to win the pool.

(2) Competitors in a sports event or series of sports events may be randomly assigned to each participant in the sports pool or selected by the participants.

(3) The department shall by rule describe the types of sports pools authorized by this part. Variations in the authorized sports pools must be submitted to the department for review and approval before they are made available for public play.

LC 0113/01

*Chances for a series of events may be purchased all at once prior to the occurrence of the first event.*

LC 0113/01

**Section 38.** Section 23-5-503, MCA, is amended to read:

**"23-5-503. Rules.** (1) The card or other device used for recording the sports pool and upon which the squares or spaces appear shall must clearly indicate in advance of the sale of any chances the number of chances to be sold in that specific pool, the name of the event or series of events, the consideration to be paid for each chance, and the total amount or percentage to be paid to the winners.

(2) A chance to participate in a sports pool may not be sold other than upon the premises in which the sports pool is conducted. An individual Each chance to participate in a sports pool may not must be sold for a consideration in excess of the same amount, which may not exceed \$5, and the total amount to be paid to the all winners of any individual sports pool may not exceed the value of \$500. A

(3) (a) Except as provided in subsection (3)(b), the winner winners of any sports pool shall receive a 100% payout of the value of the sports pool.

(b) A nonprofit organization that maintains records and opens the records to inspection upon reasonable demand records to verify that the retained portion is used to support charitable activities, scholarships or educational grants, or community service projects may retain up to 50% of the value of a sports pool.

(4) A person or nonprofit organization conducting a

sports pool may purchase chances to participate in the sports pool but may not:

(a) retain any portion of the amount wagered in the sports pool, except as provided in subsection (3)(b);

(b) charge a fee for participating in the sports pool; or

(c) use the sports pool in any manner to establish odds or handicaps or to allow betting or booking against the person or nonprofit organization conducting the pool."

**Section 39.** Section 23-5-602, MCA, is amended to read:

"23-5-602. Definitions. As used in this part, the following definitions apply:

(1) "Associated equipment" means all proprietary devices, machines, or parts used in the manufacture or maintenance of a video gambling machine or promotional device, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, metering devices, and cabinetry.

(2) "Bingo machine" means an electronic video gambling machine that, upon insertion of cash, is available to play bingo as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash.

1 The term does not include a slot machine or a machine that  
 2 directly dispenses coins, cash, tokens, or anything else of  
 3 value.

4 (3) "Draw poker machine" means an electronic video  
 5 gambling machine that, upon insertion of cash, is available  
 6 to play or simulate the play of the game of draw poker as  
 7 defined by rules of the department. The machine utilizes a  
 8 video display and microprocessors in which, by the skill of  
 9 the player, by chance, or both, the player may receive free  
 10 games or credits that may be redeemed for cash. The term  
 11 does not include a slot machine or a machine that directly  
 12 dispenses coins, cash, tokens, or anything else of value.

13 (4) "Keno machine" means an electronic video gambling  
 14 machine that, upon insertion of cash, is available to play  
 15 keno as defined by rules of the department. The machine  
 16 utilizes a video display and microprocessors in which, by  
 17 the skill of the player, by chance, or both, the player may  
 18 receive free games or credits that may be redeemed for cash.  
 19 The term does not include a slot machine or a machine that  
 20 directly dispenses coins, cash, tokens, or anything else of  
 21 value.

22 (5) "Net-machine Gross income" means money put into a  
 23 video gambling machine minus credits paid out in cash.

24 (6) "Promotional device" means a device that  
 25 temporarily modifies a bingo, draw poker, or keno machine to

1 permit play without insertion of cash.

2 (7) "Promotional tournament" means an activity  
 3 conducted by a licensed operator in which two or more  
 4 players compete against each other for a defined period of  
 5 time by playing one or more video gambling machines that  
 6 have been modified by a promotional device.

7 (8) "Video gambling machine  
 8 manufacturer-distributor" means a person who assembles,  
 9 produces, makes, or supplies video gambling machines,  
 10 promotional devices, or associated equipment for sale, use,  
 11 or distribution in the state."

12 **Section 40** Section 23-5-603, MCA, is amended to read:

13 "23-5-603. Video gambling machines -- possession --  
 14 play -- restriction. (1) A person licensed operator may make  
 15 available for public play only the number of approved video  
 16 gambling machines specifically authorized by this part.

17 (2) The video gambling machines specifically authorized  
 18 by this part are bingo, keno, and draw poker machines. Only  
 19 the number of approved machines for which permits have been  
 20 granted under 23-5-612 may be made available for play by the  
 21 public on the premises of a licensed operator. The  
 22 department shall adopt rules allowing a video gambling  
 23 machine that needs repair to be temporarily replaced while  
 24 it is being repaired with a video gambling machine that is  
 25 approved under the permit provisions of this part. A fee may

LC 0113/01

1 not be charged for the replacement machine.

2 (3) Machines on premises licensed to sell alcoholic  
3 beverages for on-premises consumption on the premises must  
4 be placed:

5 (a) in the a room, area, or other part of the premises  
6 in which the alcoholic beverages are permitted to be sold  
7 and normally or consumed as determined by the department of  
8 revenue when issuing the alcoholic beverages license; and

9 (b) within sight and control of the licensed operator  
10 or his employees for the purpose of preventing access to the  
11 machines by persons under 18 years of age."

12 Section 41. Section 23-5-608, MCA, is amended to read:

13 "23-5-608. Limitation on amount of money played and  
14 value of prizes -- payment of credits in cash. (1) A Except  
15 as provided in [section 48], a video gambling machine may  
16 not allow more than \$2 to be played on a game or award free  
17 games or credits in excess of the following amounts:

18 (a) -- \$100 a game for a video draw poker machine; and

19 (b) \$800 a game for a video keno or bingo machine.

20 (2) A licensee shall pay in cash all credits owed to a  
21 player as shown on a valid ticket voucher."

22 Section 42. Section 23-5-610, MCA, is amended to read:

23 "23-5-610. Video gambling machine net gross income tax  
24 -- records -- distribution -- quarterly statement and  
25 payment. (1) An A licensed operator issued a permit under

A licensed operator must pay  
from gross income amounts  
equal to amounts stolen from  
machines or stolen after  
being taken out of machines if  
the amounts are not repaid by  
insurance and if a law  
enforcement agency investigated  
the theft. LC 0113/01

1 this part shall pay to the department a video gambling  
2 machine tax of 15% of net-machine the gross income from each  
3 video gambling machine licensed under this part.

4 (2) An A licensed operator issued a permit under this  
5 part shall keep a record of net-machine the gross income  
6 from each machine in such form as the department may  
7 require. The records must at all times during the business  
8 hours of the licensee be subject to inspection by the  
9 department.

10 (3) An A licensed operator issued a permit under this  
11 part shall, within 15 days after the end of each quarter,  
12 complete and deliver to the department a statement showing  
13 the total net-machine gross income from each video gambling  
14 machine licensed to him, together with the total amount due  
15 the state as video gambling machine net gross income tax for  
16 the preceding quarter. The statement must contain other  
17 relevant information as the department may require.

18 (4) (a) The department shall forward one-third of the  
19 tax collected under subsection (3) to the general fund.

20 (b) The department shall forward the remaining  
21 two-thirds of the tax collected under subsection (3) to the  
22 treasurer of the county or the clerk, finance officer, or  
23 treasurer of the city or town in which the licensed machine  
24 is located, for deposit to the county or municipal treasury.  
25 Counties are not entitled to proceeds from taxes on income

1 from video gambling machines located in incorporated cities  
2 and towns. The two-thirds local government portion of tax  
3 collected under subsection (3) is statutorily appropriated  
4 to the department as provided in 17-7-502 for deposit to the  
5 county or municipal treasury."

6 **Section 43.** Section 23-5-611, MCA, is amended to read:

7 "23-5-611. Machine permit qualifications --  
8 limitations. (1) (a) A person who has been granted an  
9 operator's license under 23-5-177 and a license to sell  
10 alcoholic beverages for consumption on the premises may be  
11 granted a permit for the placement of video gambling  
12 machines in his premises.

13 (b) If video keno or bingo gambling machines were  
14 legally operated on a premises on January 15, 1989, and the  
15 premises were not on that date licensed to sell alcoholic  
16 beverages for consumption on the premises or operated for  
17 the principal purpose of gaming and there is an operator's  
18 license for the premises under 23-5-177, a permit for the  
19 same number of video keno or bingo gambling machines as were  
20 operated on the premises on that date may be granted to the  
21 person who held the permit for such machines on those  
22 premises on that date except as provided in subsections  
23 (1)(d) and (1)(e).

24 (c) A Except as provided in subsections (1)(d) and  
25 (1)(e), a person who legally operated an establishment on

have been continuously carried  
on for a period, not exceeding  
5 years, during which such persons  
held a security interest  
in the business

1 January 15, 1989, for the principal purpose of gaming and  
2 has been granted an operator's license under 23-5-177 may be  
3 granted a permit for the placement of bingo and keno  
4 machines in his premises.

5 (d) Except as provided in subsection (1)(e), a permit  
6 issued under subsection (1)(b) or (1)(c) may be renewed  
7 annually only if a majority of the <sup>who are owners</sup> natural persons who had a  
8 5% or greater financial interest in the business operated on  
9 the premises on January 15, 1989, remain the same.

10 (e) If the spouse or a child of a person granted a  
11 permit under subsection (1)(b) or (1)(c) acquires  
12 controlling financial interest in the business operated on  
13 the premises and obtains an operator's license under  
14 23-5-177, the department may grant a permit and annually  
15 renew the permit if the spouse or child maintains  
16 controlling financial interest in the business. A person  
17 seeking a permit under this subsection (e) shall submit to  
18 the department sufficient proof of his relationship to the  
19 former permit holder.

20 (2) An applicant for a permit shall disclose on the  
21 application form to the department any information required  
22 by the department consistent with the provisions of  
23 23-5-176.

24 (3) A licensee may not have on the premises or make  
25 available for play on the premises more than 20 machines of

-68-  
and the activity for which a permit is  
sought has been continuously  
carried on at the premises  
since January 15, 1989, except  
the permit

LC 0113/01

LC 0113/01

1 any combination and--no--more--than--10--may-be-draw-poker  
2 machines."

3 **Section 44.** Section 23-5-612, MCA, is amended to read:  
4 "23-5-612. Machine permits -- fee. (1) The department,  
5 upon payment of the fee provided in subsection (2) and in  
6 conformance with rules adopted under this part, shall issue  
7 to the operator a an annual permit for an approved video  
8 gambling machine.

9 (2) The Except as provided in [section 15], the  
10 department shall charge an annual permit fee of \$200 for  
11 each video gambling machine permit. The fee must be prorated  
12 on a quarterly basis but may not be prorated to allow a  
13 permit to expire before June 30. The department may not  
14 grant a refund if the video gambling machine ceases  
15 operation before the permit expires.

16 (3) The department shall retain \$100 50% of the total  
17 permit fee collected under subsection (2) for purposes of  
18 administering this part. The remaining-\$100 balance must be  
19 returned on a quarterly basis to the local government  
20 jurisdiction in which the gambling machine is located. The  
21 local government portion of the fee is statutorily  
22 appropriated to the department, as provided in 17-7-502, for  
23 deposit in the local government treasury.

24 (3)--the permit expires on June 30 of each year and the  
25 fee may not be prorated.

1 (4)--A--used--keno--machine--may--be--licensed--under  
2 subsection (1) without meeting the requirements of--23-5-609  
3 as--that--section--read--on--September--30--1989--if--the  
4 applicant for licensure can establish to the satisfaction of  
5 the department that, on the date of application, he owns or  
6 possesses a machine that was owned or operated in the state  
7 prior to June 30, 1987; A license issued under this  
8 subsection expires for all purposes no later than June 30,  
9 1989."

10 **Section 45** Section 23-5-621, MCA, is amended to read:

11 "23-5-621. Video gambling machine specifications --  
12 rules. (1) The department shall adopt rules describing the  
13 video gambling machines authorized by this part and stating  
14 the specifications for video gambling machines authorized by  
15 this part. the specifications--in--the--rules--must  
16 substantially follow--the--specifications--contained--in  
17 23-5-606 and 23-5-609 as those sections read on September  
18 30, 1989. Rules adopted by the department must provide, at a  
19 minimum, that a video gambling machine must:

20 (a) use a random selection process to determine the  
21 outcome of each game;

22 (b) accept only coins, paper currency, or both;

23 (c) be permitted to contain a mechanism that accepts  
24 cash in the form of bills not to exceed \$20;

25 (d) prevent access to the inside of the machine except

1 through locks;

2 (e) use a printer device to print a ticket voucher for  
3 a winning player upon completion of play. The printer device  
4 must create a duplicate copy of tickets printed, which must  
5 be retained in the machine.

6 (f) have both electronic and mechanical meters. The  
7 electronic meter readings must be able to be printed by the  
8 printing device and displayed on the video screen.

9 (g) have a nonremovable identification plate providing  
10 the manufacturer's name, machine model, date of manufacture,  
11 and unique machine serial number;

12 (h) use a surge protector;

13 (i) issue, by activation of an external switch, an  
14 accounting ticket containing a performance synopsis of the  
15 machine;

16 (j) have nonvolatile memory storage for all required  
17 accounting ticket information; and

18 (k) exhibit total immunity to human body electrostatic  
19 discharges.

20 (2) The department shall adopt rules allowing video  
21 gambling machines to be imported into this state and used  
22 for the purposes of trade shows, exhibitions, and similar  
23 activities."

24 **Section 46.** Section 23-5-625, MCA, is amended to read:

25 "23-5-625. Video gambling machine

1 manufacturer-distributor -- license -- fees. (1) (a) It  
2 Except as provided in subsections (2) and (3), it is  
3 unlawful for any person to assemble, produce, manufacture,  
4 or supply any video gambling machine, promotional device, or  
5 associated equipment for use or play in the state without  
6 having first been issued a video gambling machine  
7 manufacturer-distributor's license by the department. A  
8 licensed manufacturer-distributor may supply a video  
9 gambling machine only to another licensed  
10 manufacturer-distributor or a licensed operator.

11 (2)(b) The department shall charge an annual license  
12 fee of \$1,000 for the issuance or renewal of a video  
13 gambling machine manufacturer-distributor's license.

14 (3)(c) In addition to other license fees, the  
15 department may charge the applicant a one-time video  
16 gambling machine manufacturer-distributor's license  
17 application processing fee. The processing fee may not  
18 exceed the department's actual costs for processing an  
19 application.

20 (4)(d) All video gambling machine  
21 manufacturer-distributor's licenses expire on June 30 of  
22 each year, and the license fee may not be prorated.

23 (5)(e) The department shall retain the license and  
24 processing fees collected for purposes of administering this  
25 part, unless otherwise provided.

(3) Insert G-I A  
and No. 31 as recorded.



LC 0113/01

LC 0113/01

1 (2) A licensed operator who is not licensed as a  
2 manufacturer-distributor may sell up to 20 video gambling  
3 machines in a calendar year if the operator:  
4 (a) had obtained permits for the machines and legally  
5 operated them prior to the sale; and  
6 (b) sells the machines to another licensed operator or  
7 a licensed manufacturer-distributor.

8 (3) A lienholder who acquires title to video gambling  
9 machines through a foreclosure action involving a licensed  
10 operator or manufacturer-distributor may sell the machines  
11 to a licensed operator or licensed  
12 manufacturer-distributor."

13 Section 47. Section 23-5-631, MCA, is amended to read:

14 "23-5-631. Examination and approval of new video  
15 gambling machines, promotional devices, and associated  
16 equipment -- fee. (1) The department shall examine and may  
17 approve a new video gambling machine, or promotional device,  
18 and associated equipment which--are that is manufactured,  
19 sold, or distributed for use in the state before the video  
20 gambling machine, promotional device, or associated  
21 equipment is sold, played, or used.

22 (2) A video gambling machine, promotional device, or  
23 associated equipment may not be examined or approved by the  
24 department until the video gambling machine  
25 manufacturer-distributor is licensed as required in

1 23-5-625.

2 (3) All video gambling machines approved by the  
3 department of commerce prior to October 1, 1989, must be  
4 considered approved under this part.

5 (4) The department shall require the  
6 manufacturer-distributor seeking the examination and  
7 approval of a new video gambling machine, promotional  
8 device, or associated equipment to pay the anticipated  
9 actual costs of the examination in advance and, after the  
10 completion of the examination, shall refund overpayments or  
11 charge and collect amounts sufficient to reimburse the  
12 department for underpayments of actual costs.

13 (5) The department may inspect and test and approve,  
14 disapprove, or place a condition upon a video gambling  
15 machine or promotional device prior to its distribution and  
16 placement for play by the public."

17 NEW SECTION. Section 48. Promotional tournaments. (1)

18 A licensed operator may apply to the department for a permit  
19 to conduct a promotional tournament. The application for a  
20 promotional tournament permit must be submitted to the  
21 department at least 20 days before the scheduled start of  
22 the tournament and must be accompanied by a \$30 fee. The  
23 department shall retain the fee to cover the cost of  
24 processing the permit.

25 (2) Each video gambling machine used in a promotional

1 tournament must have a permit as provided in 23-5-612 and is  
2 subject to the limitation provided in 23-5-611(3).

3 (3) An operator may not charge a player a fee to  
4 participate in a promotional tournament.

5 (4) An operator shall provide each player with a copy  
6 of the tournament rules before the start of the promotional  
7 tournament. A copy of the rules must be prominently posted  
8 in a conspicuous location in the area where the tournament  
9 is conducted.

10 (5) Prizes awarded during a promotional tournament may  
11 exceed the prize limits provided for in 23-5-608.

12 (6) The department shall adopt rules for the conduct of  
13 promotional tournaments. The rules must address but are not  
14 limited to:

15 (a) tournament permit procedures and application form;

16 (b) promotional device approval procedures and  
17 application form; and

18 (c) specifications for promotional devices.

19 **Section 49.** Section 17-7-502, MCA, is amended to read:

20 "17-7-502. Statutory appropriations -- definition --  
21 requisites for validity. (1) A statutory appropriation is an  
22 appropriation made by permanent law that authorizes spending  
23 by a state agency without the need for a biennial  
24 legislative appropriation or budget amendment.

25 (2) Except as provided in subsection (4), to be

1 effective, a statutory appropriation must comply with both  
2 of the following provisions:

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

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

8 (3) The following laws are the only laws containing  
9 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
10 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;  
11 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;  
12 15-70-104; 16-1-404; 16-1-410; 16-1-411; 17-3-712; 17-5-404;  
13 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;  
14 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;  
15 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;  
16 20-9-361; 23-5-136; 23-5-306; 23-5-489; 23-5-610; 23-5-612;  
17 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504;  
18 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205;  
19 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103;  
20 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613;  
21 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws  
22 of 1985.

23 (4) There is a statutory appropriation to pay the  
24 principal, interest, premiums, and costs of issuing, paying,  
25 and securing all bonds, notes, or other obligations, as due,

LC 0113/01

1 that have been authorized and issued pursuant to the laws of  
2 Montana. Agencies that have entered into agreements  
3 authorized by the laws of Montana to pay the state  
4 treasurer, for deposit in accordance with 17-2-101 through  
5 17-2-107, as determined by the state treasurer, an amount  
6 sufficient to pay the principal and interest as due on the  
7 bonds or notes have statutory appropriation authority for  
8 such payments. (In subsection (3), pursuant to sec. 10, Ch.  
9 664, L. 1987, the inclusion of 39-71-2504 terminates June  
10 30, 1991.)"

11 ~~Section 50. Section 17-2-502, MCA, is amended to read:~~  
12 ~~"17-2-502. Statutory appropriations -- definition --~~  
13 ~~requisites for validity. (1) A statutory appropriation is an~~  
14 ~~appropriation made by permanent law that authorizes spending~~  
15 ~~by a state agency without the need for a biennial~~  
16 ~~legislative appropriation or budget amendment.~~

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

- 20 (a) The law containing the statutory authority must be  
21 listed in subsection (3).  
22 (b) The law of portion of the law making a statutory  
23 appropriation must specifically state that a statutory  
24 appropriation is made as provided in this section.

25 (3) The following laws are the only laws containing

LC 0113/01

1 ~~statutory appropriations: 2-9-202; 2-17-105; 2-18-812;~~  
2 ~~10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;~~  
3 ~~15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;~~  
4 ~~15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;~~  
5 ~~17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;~~  
6 ~~19-10-205; 19-10-305; 19-10-506; 19-11-517; 19-11-513;~~  
7 ~~19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;~~  
8 ~~20-9-361; 23-5-136; 23-5-306; [section 26]; 23-5-489;~~  
9 ~~23-5-510; 23-5-612; 23-5-1016; 23-5-1027; 27-12-206;~~  
10 ~~37-51-501; 39-71-2504; 53-6-150; 53-24-206; 61-2-406;~~  
11 ~~61-5-121; 67-3-205; 75-1-1101; 75-5-1108; 75-11-313;~~  
12 ~~76-12-123; 80-2-103; 82-11-136; 82-11-161; 90-3-301;~~  
13 ~~90-4-215; 90-4-613; 90-6-331; 90-9-306; and section 13,~~  
14 ~~House Bill No. 861, Laws of 1985.~~

15 (4) There is a statutory appropriation to pay the  
16 principal, interest, premiums, and costs of issuing, paying,  
17 and securing all bonds, notes, or other obligations, as due,  
18 that have been authorized and issued pursuant to the laws of  
19 Montana. Agencies that have entered into agreements  
20 authorized by the laws of Montana to pay the state  
21 treasurer, for deposit in accordance with 17-2-101 through  
22 17-2-107, as determined by the state treasurer, an amount  
23 sufficient to pay the principal and interest as due on the  
24 bonds or notes have statutory appropriation authority for  
25 such payments. (In subsection (3), pursuant to sec. 10, Ch.

664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991."

**Section 51.** ~~Section 41-5-203, MCA, is amended to read:~~

"41-5-203. Jurisdiction of the court. (1) Except as provided in subsection (2), the court has exclusive original jurisdiction of all proceedings under the Montana Youth Court Act in which a youth is alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of care or concerning any person under 21 years of age charged with having violated any law of the state or ordinance of any city or town other than a traffic or fish and game law prior to having become 18 years of age.

(2) Justice, municipal, and city courts have concurrent jurisdiction with the youth court over all alcoholic beverage and gambling violations alleged to have been committed by a youth."

**NEW SECTION. Section 52. Wagering between persons. (1)**

Two or more natural persons in a public place may wager against each other on the outcome of a contest, exhibition, or other event in which they are not participants if:

- (a) the persons are physically in the presence of each other at the time the wagers are placed and a person is not serving as an agent for another person;
- (b) a person, including a licensed operator, does not receive or have a right to receive, directly or indirectly,

a profit, remuneration, or compensation from the wagering, except any amount that the person may win as a participant on the same basis as other participants; and

(c) the wagering is conducted in a fair and honest manner and is not designed, devised, or adapted to permit predetermination of the winner or prevent a person from winning.

(2) A licensed operator may hold wagers placed by persons under subsection (1) until completion of the contest, exhibition, or other event

(3) This section does not apply to gambling activities conducted under chapter 4 or chapter 5, part 2 or 5, of this title.

**NEW SECTION. Section 53. Fantasy sports leagues defined.** As used in [sections 53 through 57], a "fantasy sports league" means a gambling activity conducted in the following manner:

(1) A fantasy sports league consists of a limited number of persons or groups of persons who pay an entrance fee for membership in the league. The entrance fee may include an administrative fee.

(2) Each league member creates a fictitious team composed of athletes from a given professional sport, such as baseball, basketball, or football. Player selection is conducted through random drawings or a bidding process.

LC 0113/01

1 (3) After the initial teams are selected, interim  
2 replacement of players may occur by trade or purchase. A  
3 specific fee, which may not exceed the total entrance fee,  
4 is charged for each transaction.

5 (4) A method, as defined by league rules, is devised to  
6 permit each team to compete against other teams in the  
7 league. Points are awarded to a team according to the  
8 performance of individual players or teams or both during a  
9 designated time period.

10 (5) A member may be eligible to receive a payout based  
11 on the number of points accumulated. Payouts, which may be  
12 in the form of cash or prizes, are awarded according to  
13 league rules.

14 (6) Rules governing the conduct of the fantasy sports  
15 league must be provided in writing to each member.

16 NEW SECTION. Section 54. Fantasy sports leagues  
17 authorized. It is lawful to conduct or participate in a  
18 fantasy sports league.

19 NEW SECTION. Section 55. Payouts -- administrative  
20 fees charged by commercial establishments. (1) The total  
21 value of payouts to all league members must equal the amount  
22 collected for entrance, administrative, and transactions  
23 fees, minus payment for administrative expenses.

24 (2) If a commercial establishment charges an  
25 administrative fee for conducting a fantasy sports league,

LC 0113/01

1 the fee for each participant may not be more than 15% of the  
2 amount charged as a participant's entrance fee.

3 NEW SECTION. Section 56. Sports betting prohibited --  
4 applicability. [Sections 53 through 57] do not:  
5 (1) authorize betting or wagering on the outcome of an  
6 individual sports event; or

7 (2) apply to gambling activities governed under chapter  
8 4 or chapter 5, part 2 or 5, of this title.

9 NEW SECTION. Section 57. Violations. A person who  
10 purposely or knowingly violates or procures, aids, or abets  
11 in a violation of [sections 53 through 57] is guilty of a  
12 misdemeanor punishable under 23-5-161.

13 NEW SECTION. Section 58. ~~Definitions.~~ Unless the  
14 context requires otherwise, the following definitions apply  
15 to [sections 58 through 67]:

16 (1) "Crane game" means a device activated by the  
17 insertion of a coin or token by which the player uses one or  
18 more buttons, control sticks, or similar means of control or  
19 a combination of those means of control to position a  
20 mechanical or electromechanical claw or other retrieval  
21 device over a prize and attempts to retrieve it.

22 (2) "Department" means the department of justice as  
23 provided for in 2-15-2001.

24 (3) "person" means a natural or artificial person,  
25 partnership, corporation, or association.

**NEW SECTION. Section 59. License and permit required.**

A person may not make a crane game available for public play in this state without obtaining an annual crane game operator's license and an annual crane game permit.

**NEW SECTION. Section 60. License application**

procedure. (1) To obtain a crane game operator's license, a person shall submit a completed application on a form prescribed and furnished by the department along with any other relevant information requested.

(2) The department shall approve an application unless the applicant fails to supply the requested information or for reasons set forth in 23-5-176.

(3) If the application is approved, the department shall issue to the applicant a crane game operator's license. The department may place reasonable conditions on the license.

(4) A crane game operator's license is effective January 1 through December 31 and must be renewed annually. The department may deny a renewal if the operator has violated [sections 58 through 67] or a department rule.

**NEW SECTION. Section 61. Crane game permit -- fee. (1)**

After obtaining a crane game operator's license under [section 60], a licensee shall annually apply to the department on a form prescribed and furnished by the department for a permit for each crane game he intends to

1 make available for public play. The application must specify  
2 the locations where the crane game is to be located and must  
3 be accompanied by a permit fee of \$35. The department shall  
4 retain the fee, which may not be prorated, upon issuance of  
5 the permit.

(2) The department shall approve an application unless  
7 the applicant fails to supply the requested information or  
8 permit fee or for reasons set forth in 23-5-176.

(3) If the application is approved, the department  
10 shall issue to the applicant a crane game permit, which must  
11 be affixed to the game.

(4) A permit is effective January 1 through December 31  
13 and must be renewed annually. The department may deny a  
14 renewal if the operator has violated [sections 58 through  
15 67] or a department rule.

(5) If a crane game is moved to a location other than  
17 one of the locations specified in the permit application,  
18 the operator shall notify the department of the new  
19 location.

**NEW SECTION. Section 62. Crane game requirements. A**

crane game may be made available for public play if:

(1) a license and permit is obtained under [sections 58  
23 through 67];

(2) the amount paid for the right to play the crane  
25 game does not exceed \$2;

Insert 2-15-2021 as amended  
by HB 958 to change biennial  
dept. report to annual report.

LC 0113/01

LC 0113/01

(3) a cash prize is not awarded and a merchandise prize is not redeemable for cash;

(4) the system for awarding prizes does not require forfeiture of a previously won prize unless the prize is traded for a prize of equal or greater value;

(5) the claw or retrieval device within the crane game is capable of reaching, lifting, and dispensing all prizes within the machine;

(6) the controls for the crane game are clearly labeled as to function and instructions for operating the game are conspicuously posted; and

(7) the crane game does not contain a variable resistor or any turn screw, knob, potentiometer, or similar device that may be used to alter the closing strength of the game's claw or retrieval device.

**NEW SECTION. Section 63.** Rules. The department shall adopt rules to implement [sections 58 through 67]. The rules must address but are not limited to license and permit procedures and inspection of crane games.

**NEW SECTION. Section 64.** Authority of local governments. A local government may not license or regulate a crane game governed under [sections 58 through 67] or assess or charge any fees or taxes unless specifically authorized by statute.

**NEW SECTION. Section 65.** Violations. A person who

use SB 53

1-85

1-85

purposely or knowingly violates or who procures, aids, or abets in a violation of [sections 58 through 67] is guilty of an offense punishable by a fine not to exceed \$10,000, imprisonment in the county jail for a term not to exceed 1 year, or both. A penalty imposed under this section may be in addition to a penalty imposed under [section 67].

**NEW SECTION. Section 66.** Prosecution. A violation of [sections 58 through 67] or a department rule must be prosecuted in the same manner as provided in 23-5-172.

**NEW SECTION. Section 67.** Administrative remedies - judicial review. (1) If a person has engaged in or is engaging in an act or practice in violation of [sections 58 through 67] or a department rule or order, the department may exercise any of the administrative remedies provided for in 23-5-136.

(2) A person aggrieved by a final order of the department may obtain a review of the order in district court in accordance with 23-5-137.

**NEW SECTION. Section 68.** Repealer. Section 23-5-102, MCA, is repealed. HB 958 (1999 gross proceeds tax)

**NEW SECTION. Section 69.** Codification instruction. (1) [Sections 14, 15, 31, 37, 48, and 52 through 57] are intended to be codified as an integral part of Title 23, chapter 5, parts 1 through 6, and the provisions of Title 23, chapter 5, parts 1 through 6, apply to [sections 14, 15,

Insert shake-a-daw and shaking for a drink or music, as a new section.

1 31, 37, 48, and 52 through 57].

2 (2) [Sections 25 through 30] are intended to be  
3 codified as an integral part of Title 23, chapter 5, part 3,  
4 and the provisions of Title 23, chapter 5, part 3, apply to  
5 [sections 25 through 30].

6 NEW SECTION. Section 70. Severability. If a part of  
7 [this act] is invalid, all valid parts that are severable  
8 from the invalid part remain in effect. If a part of [this  
9 act] is invalid in one or more of its applications, the part  
10 remains in effect in all valid applications that are  
11 severable from the invalid applications.

12 NEW SECTION. Section 71. Effective dates --  
13 termination. (1) (a) [Sections 1, 30, 58 through 67, 69, 70  
14 and this section] are effective on passage and approval.

15 (b) [Sections 32, 33, and 68] are effective July 1,  
16 1991.

17 (c) [Sections 3, 12, 17, 19, 21, 22, 25 through 29, and  
18 50] are effective January 1, 1992.

19 (d) The remaining sections are effective October 1,  
20 1991.

21 (2) [Sections 58 through 67] terminate December 31,  
22 1993.

-End-

Insert Coordination  
Instruction voiding  
section 4 of SB427  
if SB 427 is passed  
and approved.

- Make sections 4 & 53-57  
immediately effective.

- Make sections 36, 37,  
and 44  
effective July 1, 1991.



EXHIBIT 1

DATE 3.28.91 12

HB 45673 13  
insert

11 (14) "Gift enterprise" means a scheme, by whatever name  
12 known, for the disposal or distribution of property by  
13 chance among persons who have obtained chances to acquire  
14 the property or a portion of it by purchasing goods or  
15 services. The term does not mean:  
16 (a) lotteries authorized under part 10 of this chapter;  
17 (b) cash or merchandise attendance prizes or premiums  
18 that the county fair commissioners of agricultural fairs and  
19 rodeo associations may give away at public drawings at fairs  
20 and rodeos; or  
21 (c) a promotional game of chance.

Page 16, line 6.

Following: "application"

Strike: "and approved by the department."

Insert: ". The premises must

- (a) be a structure or facility that is clearly defined by walls extending from floor to ceiling;
- (b) have a unique address assigned by the local government in which the premises is located;
- (c) have a public external entrance leading to a street or other common area; and
- (d) if the premises shares a common wall with another premises for which an operator's license has been issued, have the common wall permanently installed, opaque, and extending from floor to ceiling. The adjoining premises ~~is~~ connected by an internal entrance through which public access is allowed, ~~the premises may not be owned by any~~

Page 9, following line 10.

Insert: "(29) "Promotional game of chance" means a scheme by whatever name known, for the disposal or distribution of property by chance among persons who have not paid and are not expected to pay any consideration, or who have not purchased and are not expected to purchase any goods or services, for a chance to obtain the property, a portion of it or a share in it."

Renumber: subsequent subsections.

3 (c) a place, building, or conveyance to which the  
4 public does not have access if players are publicly  
5 solicited or the gambling activity is conducted in a  
6 predominately commercial manner.

16 (2) In addition to the information enumerated in  
17 subsection (1), the department may disclose <sup>(v)</sup> any other  
18 relevant information obtained in the application or tax  
19 reporting process or as a result of other department  
20 operations, <sup>to be</sup> which may be disclosed only  
21 a federal, state, city, county, or tribal criminal  
22 justice agency, and  
23 the department of revenue and the federal internal.

page 16  
line 15  
insert

page 27  
line 10  
insert

page 16  
line 7  
insert

page 16  
line 8  
insert

# GIA  
11

GIA  
#2

GIA  
#1

~~page 27~~  
page 31  
line 22  
insert

16 "23-5-153. Possession and sale of antique slot  
17 machines. (1) For the purposes of this section, an antique  
18 slot machine is a mechanically or electronically operated  
19 slot machine that at any present time is more than 25 years  
20 old manufactured before January 1, 1965.

21 (2) Except as provided in subsection (3), an antique  
22 slot machine may be possessed, located, and operated only in  
23 a private residential dwelling.

24 (3) (a) An antique slot machine may be possessed and  
25 located for purposes of display only and not for operation

1 in any public museum owned and operated by the state, a  
2 county, or a city.

3 (b) A licensed manufacturer-distributor may possess and  
4 sell antique slot machines for purposes of selling or  
5 otherwise supplying the machines.

6 (4) A person or entity legally possessing a slot  
7 machine under subsection (2) or (3) may sell or otherwise  
8 supply a machine to another person or entity who may legally  
9 possess a slot machine.

10 (5) An antique slot machine may not be operated for  
11 any commercial or charitable purpose."

page 35  
line 21  
insert

Page 35, following line 20.

Insert: "(4) The department may issue and annually renew more than one operator's license for a premises if:

(a) the applicant was:

(i) licensed under this section on January 1, 1991, to operate in a premises not meeting the requirements of 23-5-112(26); or

(ii) operating a business selling alcoholic beverages for on premises consumption on January 1, 1991, and had filed with the department on or before January 1, 1991, an application for an operator's license for premises not meeting the requirements of 23-5-112(26); and

(b) at the time of the application for a license, the majority of natural persons holding a financial interest in the business remains the same as on January 1, 1991, except that the spouse or child of a person granted a license under this subsection may acquire controlling financial interest in the business."

Renumber subsequent sections.

Ex. 7

3-28-91

HB 673

Insert on page 71, line 24

(3) A video gambling machine for which there was a permit on January 1, 1991, is not subject to this section as amended on [the effective date of the HB 673 amendment to this section] or to rules implementing this section and adopted after [that date]. Such machines are subject to this section as it read on January 1, 1991, and to rules implementing this section and in effect on that date.

**PROPOSED AMENDMENTS TO HOUSE BILL NO. 673**

Submitted by the Gambling Control Division  
March 28, 1991

1. Insert 23-5-156, MCA, as amended:

**"23-5-156. Obtaining anything of value by fraud or operation of illegal gambling device or enterprise.** (1) A person who ~~by gambling~~ in an activity involving gambling obtains money, property, or anything of value that does not exceed \$300 in value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a misdemeanor and is punishable as provided in 23-5-161.

(2) A person who ~~by gambling~~ in an activity involving gambling obtains money, property, or anything of value that exceeds \$300 in value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a felony and is punishable as provided in 23-5-162."

2. Insert the following new section:

**NEW SECTION.** Section \_\_. Illegal sale, assignment, lease, or transfer of license -- penalty. A licensee who purposely or knowingly sells, assigns, leases, or transfers a license or permit in violation of 23-5-110 is guilty of a misdemeanor punishable in accordance with 23-5-161.

3. Insert the following new subsection in section 47 (pages 73 and 74), which amends 23-5-631, MCA:

**"23-5-631. Examination and approval of new video gambling machines and associated equipment -- fee.** (1) The department shall examine and may approve a new video gambling machine and associated equipment which are manufactured, sold, or distributed for use in the state before the video gambling machine or associated equipment is sold, played, or used.

(2) A video gambling machine or associated equipment may not be examined or approved by the department until the video gambling machine manufacturer-distributor is licensed as required in 23-5-625.

(3) All video gambling machines approved by the department of commerce prior to October 1, 1989, must be considered approved under this part.

(4) The department shall require the manufacturer-distributor seeking the examination and approval of a new video gambling machine or associated equipment to pay the anticipated actual costs of the examination in advance and,

after the completion of the examination, shall refund overpayments or charge and collect amounts sufficient to reimburse the department for underpayments of actual costs.

(5) Payments received under subsection (4) are statutorily appropriated to the department, as provided in 17-7-502, to defray the costs of examining and approving video gambling machines and associated equipment and to issue refunds for overpayments.

~~(5)~~(6) The department may inspect and test and approve, disapprove, or place a condition upon a video gambling machine prior to its distribution and placement for play by the public."

(In conjunction with this amendment, section 49 (which amends 17-7-502, MCA -- statutory appropriations) must be amended to list 23-5-631, MCA, as a law containing a statutory amendment.)

EXHIBIT 4  
DATE 3.28.91  
HB 673

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 3.28 BILL NO. HB 678 NUMBER \_\_\_\_\_

MOTION: Brown - Casino night (limited version)  
Failed

| NAME                           | AYE | NO |
|--------------------------------|-----|----|
| 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   | /   |    |
| TOTAL                          | 8   | 10 |

EXHIBIT 1  
DATE 3-28-91  
HB 673

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 3-28 BILL NO. HB 673 NUMBER

MOTION: Rep. Toole : moved to strike the increase to  
live poker & reinstate present law.

| NAME                           | AYE    | NO |
|--------------------------------|--------|----|
| 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   | absent |    |
| TOTAL                          | 17     | 2  |

EXHIBIT 11  
DATE 3-28-91  
HB 673

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 3-28 BILL NO. HB 673 NUMBER

MOTION: Rep. Toole moved to put the limit on  
Poker machines back to present law.

| NAME                           | AYE     | NO |
|--------------------------------|---------|----|
| 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   | abstain |    |
| TOTAL                          | 15      | 4  |



EXHIBIT 12  
DATE 3-28-91  
HB 673

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 3-28 BILL NO. HB 673 NUMBER \_\_\_\_\_

MOTION: Rep. Brown moved to raise live Keno  
to \$300.

| NAME                           | AYE | NO |
|--------------------------------|-----|----|
| 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   | /   |    |
| TOTAL                          | 14  | 6  |

EXHIBIT 1  
DATE 3-28-91  
HB 673

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 3-28-91 BILL NO. HB 673 NUMBER         

MOTION: Rep. Measure moved DO NOT PASS

| NAME                           | AYE | NO |
|--------------------------------|-----|----|
| 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   |     | /  |
| TOTAL                          | 12  | 7  |