

1 *House* BILL NO. *510*
 2 INTRODUCED BY *Kelly Susan H. Mulan Lulici*
 3 *Propila Mahaban M. Fadden*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO LICENSE AND TAX SLOT
 5 MACHINES AND TO UTILIZE THE FUNDS DERIVED TO PROVIDE
 6 REVENUE, TO PROVIDE PENALTIES FOR VIOLATION THEREOF AND TO
 7 REPEAL SECTIONS 94-8-428, 94-8-429, AND 94-8-431, R.C.M.
 8 1947."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Short title. This act may be cited as "The
 12 Slot Machine Act of 1975".

13 Section 2. Purpose. The purpose of this act is to
 14 provide another source of revenue by licensing and taxing
 15 slot machines.

16 Section 3. Definitions. As used in this act:

17 (1) "Slot machine" means any mechanical, electrical,
 18 or other device, contrivance or machine which, upon
 19 insertion of a coin, token, or similar object therein, or
 20 upon payment of any consideration, is available to play or
 21 operate, the play or operation of which, whether by reason
 22 of the skill of the operator or application of the element
 23 of chance, or both, may deliver or entitle the person
 24 playing or operating the machine to receive cash, premiums,
 25 merchandise, tokens, or any thing of value, whether the

1 payoff is made automatically from the machine or in any
 2 other manner.

3 (2) "Licensed wholesaler" means any person licensed
 4 under the provisions of this act who is engaged in the
 5 business of leasing or selling slot machines.

6 (3) "Licensed retailer" means any person, corporation,
 7 or partnership that holds a valid business license from the
 8 local government in which the business is located.

9 (4) "Licensee" means any qualified person to whom a
 10 license has been issued under this act.

11 (5) "Person" means a natural person, firm,
 12 association, corporation, or other legal entity.

13 (6) "Department" means department of revenue.

14 Section 4. Department of revenue licensing authority.

15 (1) The department is designated as the licensing authority
 16 for wholesale licenses under this act. The department shall
 17 enforce the terms and provisions of this act, and shall:

18 (a) Grant or refuse licenses under this act. The
 19 department, on its own motion based on reasonable grounds,
 20 or on complaint made and after investigation and public
 21 hearing, at which the licensee is afforded an opportunity to
 22 be heard, may suspend or revoke any license issued by the
 23 department for any violation by the licensee or any officer,
 24 director, agent, member, or employee of that licensee of the
 25 provisions of this act or any rule authorized hereunder.

1 Notice of suspension or revocation, as well as notice of
2 hearing, shall be given by certified mail to the licensee at
3 the address contained on the license.

4 (b) Supervise the administration of this act and
5 adopt, amend, and repeal rules governing the operation and
6 conduct of slot machines.

7 (c) Hear and determine at public hearing all
8 complaints against any licensee, and administer oaths and
9 issue subpoenas to require the presence of persons and
10 production of papers, books, and records necessary to the
11 determination of any hearing so held.

12 (d) Keep records of all actions and transactions of
13 the department concerning this act.

14 (e) Report annually to the governor or legislature
15 respecting the administration of this act, including an
16 accounting of all licenses issued and moneys collected and
17 make recommendations in regard to legislation.

18 (f) Enforce the provisions of this act. The
19 department, its members and agents have the powers of peace
20 officers, and are authorized to arrest any person violating
21 any provision of this act, and to file a complaint before
22 any court of competent jurisdiction, and to lawfully search
23 and seize and use as evidence, any unlawful or unlawfully
24 possessed license, slot machine, or insignia found in the
25 possession of any person or place.

1 (g) Remove from the premises of a licensed retailer
2 any or all slot machines, when that retailer is in violation
3 of this act. This licensed retailer shall not operate,
4 control or own any other slot machines until the penalty for
5 violation of this act has been paid.

6 (2) Proceedings to suspend or to revoke any license
7 shall be brought by the department in accordance with the
8 Montana Administrative Procedure Act. The department may
9 stop the operation of slot machines by notice to a licensee
10 pending hearing, in which case the hearing shall be held
11 within thirty (30) days of notice.

12 (3) When a license is ordered suspended or revoked,
13 the licensee shall surrender the license to the department
14 on or before the effective date of the suspension or
15 revocation. No license is valid beyond the effective date
16 of the suspension or revocation, whether surrendered or not.

17 (4) In addition to any other penalty imposed under
18 this act the department may declare the violator ineligible
19 to operate or control slot machines for no more than two (2)
20 years after the declaration.

21 Section 5. Wholesale license. (1) Each wholesaler
22 shall obtain a license from the department before engaging
23 in the business of wholesaler.

24 (2) A separate application and a separate license is
25 required for each place of business owned, controlled, or

1 operated by the licensed wholesaler within the state of
2 Montana.

3 (3) Application forms supplied by the department shall
4 contain:

5 (a) the type and general description of applicant's
6 organization;

7 (b) names and home addresses of all owners, stating
8 whether or not principals of these organizations have been
9 convicted of a felony;

10 (c) identification of each convicted individual; and

11 (d) other pertinent information as the department
12 requires by rule.

13 (4) All applicants for a wholesaler's license and all
14 persons, owners, or others who have a financial interest in
15 the applicant's organization shall be at least eighteen (18)
16 years of age and a resident of the state at least five (5)
17 years prior to the date of application.

18 (5) Each application for a wholesaler's license shall
19 be accompanied by a fee of five hundred dollars (\$500).

20 (6) The department shall adopt proper insignia to
21 indicate the applicable fee has been paid. The fee shall be
22 collected before the department issues the insignia, unless
23 the licensed wholesaler is allowed a credit under section 6
24 of this act. Other requirements applicable to insignia are:

25 (a) only licensed wholesalers shall purchase insignia;

1 (b) licensed wholesalers shall affix insignia to slot
2 machines prior to transfer to a licensed retailer or any use
3 by the licensed wholesaler; and

4 (c) licensed wholesalers shall not resell insignia,
5 but may return them to the department for a refund.

6 Section 6. Wholesaler credit. (1) Each licensed
7 wholesaler shall pay on a cash basis for one (1) complete
8 calendar year, before he is eligible to delay payment as
9 provided in this section.

10 (2) The department shall permit a licensed wholesaler
11 to pay for the insignia purchased within thirty (30) days
12 after the date of purchase if that wholesaler files with the
13 department a bond issued by a surety company, approved by
14 the department, of insurance as to solvency and
15 responsibility and authority to transact business in the
16 state, for any amount the department may fix, but not in
17 excess of an amount equal to to the maximum insignia
18 purchase incurred for any thirty (30) day period in the
19 previous calendar year.

20 (3) The amount of the bond required above may be added
21 to the amount of any other bond which a wholesaler furnishes
22 to the state of Montana so that only one (1) bond may be
23 provided for the total amount.

24 Section 7. Cash basis only. No rental, sale, or
25 delivery of slot machines shall be made to any licensed

1 retailer, except for cash paid on or before the date of
2 delivery. A correctly dated check which is honored upon
3 presentment shall be considered as cash for purposes of this
4 section.

5 Section 8. Wholesale license renewal -- display. (1)
6 Wholesale licenses may be renewed annually upon payment of
7 the annual fee and shall be effective for one (1) year,
8 without proration.

9 (2) Each license shall be prominently displayed on the
10 licensed premises, and a separate license shall be displayed
11 at each place of business owned, controlled, or operated by
12 the licensed wholesaler.

13 (3) Retail licenses shall be renewed as provided by
14 the applicable local government.

15 Section 9. Tax on slot machines. There is an annual
16 tax of five hundred dollars (\$500) levied on each slot
17 machine owned, controlled, or operated in the state of
18 Montana. This tax is payable by the licensed retailer at a
19 time prescribed by the department. The department shall
20 allocate from the tax on each machine as follows:

- 21 (a) to general revenue of the state - \$250;
22 (b) to general fund of the county in which the machine
23 is located - \$125; and
24 (c) to general fund of the city or town in which the
25 machine is located -- \$125.

1 Section 10. Machines per licensed retailer. The total
2 number of slot machines offered for play by any licensed
3 retailer shall not exceed four (4) machines.

4 Section 11. Interstate shipment. Every common carrier
5 hauling, transporting, or shipping into or out of the state
6 of Montana, from or to any other state, any slot machine
7 shall report in writing the shipments or deliveries to the
8 department, on forms furnished by the department, giving the
9 date, the person to whom the same was consigned and
10 delivered, the quantity as shown by the bill of lading and
11 other information as the department may require.

12 All slot machines without the required insignia affixed
13 may only be transported into or out of the state by common
14 carrier or United States mail.

15 Section 12. Intrastate shipment. (1) It shall be
16 unlawful for any person, except a licensed wholesaler, to
17 possess, transport into, receive, carry, or move from place
18 to place within this state any slot machines which do not
19 bear the insignia required by this act, except in the
20 following cases:

- 21 (a) when in interstate commerce; or
22 (b) when transported from a manufacturer directly to a
23 licensed wholesaler.

24 (2) Any motor vehicle, airplane, conveyance, vehicle,
25 or other means of transportation, in which slot machines are

1 unlawfully transported, together with the slot machines and
 2 other equipment or personal property used in connection with
 3 that transportation, and found in that means of
 4 transportation, are subject to seizure by the department or
 5 any peace officer.

6 (3) If no application for return is made as provided
 7 in section 13 of this act, upon completion of all legal and
 8 department proceedings, the seized items shall be sold for a
 9 reasonable price at public auction and the funds obtained
 10 disbursed as provided in section 94-8-412, R.C.M. 1947.

11 Section 13. Seizure of slot machine. Upon the seizure
 12 of any slot machine and within two (2) days thereafter, the
 13 person or officer making the seizure shall deliver an
 14 inventory of the property seized to the person from whom the
 15 seizure was made, if known, and file a copy thereof with the
 16 department. The person from whom the seizure was made, or
 17 any other person claiming an interest in the property
 18 seized, may apply for its return as provided in sections
 19 95-713 through 95-716, R.C.M. 1947.

20 Section 14. Grievance procedure -- hearing under
 21 Administrative Procedure Act. Any person aggrieved by any
 22 action of the department may apply to the department, in
 23 writing, for a hearing or rehearing thereon within thirty
 24 (30) days after the action of the department or its duly
 25 authorized agents. The department shall promptly consider

1 the application, set it for hearing and notify the applicant
 2 of the time and place fixed for that hearing or rehearing,
 3 which may be at its office or in the county of the
 4 applicant. Any hearing shall be held in accordance with the
 5 Montana Administrative Procedure Act. After a hearing or
 6 rehearing, the department may make any order it deems proper
 7 and lawful and shall furnish a copy thereof to the
 8 applicant. The department, on its own initiative, may order
 9 a hearing on any matter concerned with the administration of
 10 this act, upon at least ten (10) days notice in writing to
 11 the person or persons to be investigated.

12 Section 15. Appeal to district court. Any person
 13 aggrieved by any action or decision of the department, made
 14 under the provisions of this act, may appeal therefrom to
 15 the district court of the county where appellant resides, in
 16 accordance with the provisions of the Montana Administrative
 17 Procedure Act.

18 Section 16. Gambling on a cash basis. (1) In every
 19 gambling game conducted under any gambling law of this state
 20 the consideration paid for the chance to play shall be cash.
 21 Every participant shall present the money with which he
 22 intends to play the gambling game at the time the game is
 23 played. No check, credit card, note, I.O.U., or other
 24 evidence of indebtedness shall be offered or accepted as
 25 part of the price of participating in a gambling game or as

1 payment of a gambling debt.

2 (2) No action based on a gambling debt is maintainable
3 in a court of this state.

4 Section 17. Cheating unlawful. It shall be unlawful
5 to conduct or participate in a gambling game authorized by
6 this act or any other gambling law in any manner which
7 results in cheating, misrepresentation, or other
8 disreputable tactics which distract from a fair and equal
9 chance for all participants or which otherwise affects the
10 outcome of the gambling game.

11 Section 18. Minors not permitted to participate. No
12 person under the age of eighteen (18) years shall be
13 permitted to operate a slot machine and no licensee shall
14 allow any person under eighteen (18) years to operate a slot
15 machine.

16 Section 19. Prohibition against playing where no
17 proper insignia. No person shall use or play a slot machine
18 not having affixed thereto the insignia required by this
19 act.

20 Section 20. Assistance of county attorneys and local
21 peace officers. The department may call to its assistance,
22 any county attorney or any peace officer, in this state, who
23 shall assist the department in the enforcement of this act.

24 Section 21. Venue. Venue for any violation of this
25 act lies in the judicial district where the department

1 maintains its principal office. The department may sue the
2 violator for the amount of any unpaid tax or fee and costs,
3 including reasonable expenses. Where the court finds the
4 failure to pay the tax has been willful, the court shall
5 assess damages in treble the amount of the tax or fee due.

6 Section 22. Violation -- public nuisance. Every
7 person having possession or control of, or who maintains a
8 building or place where slot machines are played in
9 violation of this act, or permits the same to be carried out
10 in any place or building possessed, controlled, or
11 maintained by him, is guilty of maintaining and keeping a
12 public nuisance and the building or place so used, together
13 with the personal property and fixtures used in connection
14 therewith shall be considered a public nuisance, and the
15 person shall be enjoined and the building or place, personal
16 property and fixtures abated as a public nuisance, under
17 section 94-8-107, R.C.M. 1947.

18 Section 23. Violation -- a misdemeanor. Any person
19 violating any provision of this act, except as provided in
20 section 24 of this act, shall be punished by a fine of not
21 less than one hundred dollars (\$100), or more than two
22 thousand dollars (\$2,000), or by imprisonment in the county
23 jail for not more than six (6) months, or by imprisonment in
24 the state prison for any term not to exceed five (5) years,
25 or by both fine and imprisonment.

1 Section 24. Special penalty. Any person who tampers,
2 as defined in section 94-2-101 (62), R.C.M. 1947, with a
3 slot machine in any manner which lowers the gross revenue
4 computation of any slot machine, or any person who
5 manufactures a slot machine which can be tampered with in a
6 manner which lowers the gross revenue computation of any
7 slot machine commits a felony and upon conviction shall be
8 imprisoned in the state prison for a term not less than two
9 (2) years nor more than ten (10) years.

10 Section 25. Prior laws still in effect. To the extent
11 that they are not specifically superseded by provisions of
12 this act or any other gambling law, the provisions of
13 sections 94-8-401 through 94-8-431, R.C.M. 1947, remain in
14 effect.

15 Section 26. Severability. If a part of this act is
16 invalid, all valid parts that are severable from the invalid
17 part remain in effect. If a part of this act is invalid in
18 one (1) or more of its applications, the part remains in
19 effect in all valid applications that are severable from the
20 invalid applications.

21 Section 27. Repealer. Sections 94-8-428, 94-8-429,
22 and 94-8-431, R.C.M. 1947, are repealed.

23 Section 28. Effective date. This act is effective
24 January 1, 1976.

-End-

FISCAL NOTE

Form BD-15

In compliance with a written request received February 11, 19 75, there is hereby submitted a Fiscal Note for House Bill 510 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 510 provides for a \$500 license per year for wholesalers of slot machines and a \$500 annual tax per slot machine for retailers, allocates 50% of the retail tax proceeds to the state, 25% to the county and 25% to the city in which the machine is located, allows only four slot machines per licensed retailer, and provides penalties for violations. Effective date is January 1, 1976.

ASSUMPTIONS:

- Five wholesalers will purchase licenses in FY 76 and FY 77.
- Approximately 1500 slot machines will be in operation in FY 76 and the Department of Revenue will require tax collections before the end of FY 76. Approximately 2500 slot machines will be in operation in FY 77 and the Department of Revenue will require tax collections before the end of FY 77.
- One records clerk, one supervisor and two inspectors will be required to administer the proposed legislation.
- Three automobiles and other capital equipment will be purchased in FY 76.

FISCAL IMPACT:

| | | |
|--|------------------|------------------|
| I. Estimated increase in revenue for General Fund, by source | FY 76 | FY 77 |
| Slot machine wholesaler licenses | \$ 2,500 | \$ 2,500 |
| Slot machine retailer tax (50%) | <u>375,000</u> | <u>625,000</u> |
| Total increase in revenue | <u>\$377,500</u> | <u>\$627,500</u> |
| II. Estimated increase in expenditures, by category | | |
| Personal Services | \$ 26,292 | \$ 54,951 |
| Operating Expenses | 14,606 | 28,498 |
| Capital Outlay | <u>20,000</u> | <u>0</u> |
| Total increase in expenditures | <u>\$ 60,898</u> | <u>\$ 83,449</u> |
| III. Net Effect (Revenue - Expenditures) | <u>\$316,602</u> | <u>\$544,051</u> |

CONCLUSION:

Enactment of House Bill 510 will result in a net increase in revenue to the General Fund of \$860,653 during the 1975-77 Biennium.

LOCAL IMPACT:

During the 1975-77 Biennium, \$500,000 would be allocated to cities and towns and \$500,000 would be allocated to counties.

TECHNICAL NOTE: Section 7, page 9 of the bill distributes 25% of the tax collected to the appropriate city or town but does not stipulate the distribution when the slot machine is not located within a city or town. The bill does not specifically provide for the distribution of the wholesale license proceeds. It was assumed in the fiscal note that the entire proceeds would accrue to the state's General Fund.

Michael B. Bellinger
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: February 17, 1975