

1 House BILL NO. 682
 2 INTRODUCED BY Gunderson
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT, LICENSE,
 5 REGULATE, AND CONTROL GAMBLING; ESTABLISHING A GAMING
 6 CONTROL BOARD AND SPECIFYING ITS POWERS AND DUTIES; AND
 7 PROVIDING PENALTIES FOR VIOLATIONS OF THIS ACT."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Short title. This act may be cited as the
 11 "Montana Limited Gaming Control Act".

12 Section 2. Policy. It is hereby declared to be the
 13 policy of the state of Montana that all authorized
 14 establishments where gambling games are conducted or
 15 operated or where authorized gambling devices are operated
 16 and all manufacturers, sellers, and distributors of certain
 17 gambling devices and equipment in the state of Montana shall
 18 be licensed and controlled to protect the public health,
 19 safety, morals, good order and general welfare of the
 20 inhabitants of the state of Montana, and to preserve the
 21 competitive economy and the policies of free competition of
 22 the state of Montana.

23 A license issued under this chapter is a revocable
 24 privilege and no holder may acquire vested rights
 25 thereunder.

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

2 (1) "Applicant" means any person who has applied for
 3 or is about to apply for a state gaming license or a
 4 manufacturer's or distributor's license.

5 (2) "Application" means a request for the issuance of
 6 a state gaming license or a manufacturer's or distributor's
 7 license under the provisions of this act.

8 (3) "Board" means the state gaming control board as
 9 established by this act.

10 (4) "Chairman" means the chairman and executive
 11 director of the state gaming control board.

12 (5) "City" means any incorporated or unincorporated
 13 city or town.

14 (6) "Distributor" means any person engaged in the sale
 15 or leasing and distribution of any device, equipment,
 16 material or machine used in gambling.

17 (7) "Establishment" means any premises where gaming
 18 takes place.

19 (8) "Game" or "gambling game" means any banking or
 20 percentage game played with cards, dice, or any mechanical
 21 device or machine for money, property, checks, credit, or
 22 any representative of value, including bingo, punchboards,
 23 low ball, stud poker, draw poker, panguingue, whist, rummy,
 24 pinochle, solo, hearts, pitch, cribbage, dominoes, bridge,
 25 or coin-operated machines, but shall not include and this

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1 act is not intended to authorize those mechanical or
 2 electronic coin-operated machines which are commonly known
 3 as slot machines and which contain three (3) or more
 4 rotating wheels. This term does not include and this act is
 5 not intended to authorize pull tabs, jar tickets, craps,
 6 keno, roulette, or the following card games: black jack,
 7 twenty-one, faro, monte, baccarat, fan tan,
 8 seven-and-a-half, big injun, or klondike. Further, this
 9 term does not include or relate to games played in private
 10 homes or residences for prizes or games operated by
 11 religious, charitable or educational organizations which are
 12 approved by the board under provisions of section 33 of this
 13 act.

14 (9) "Gaming" or "gambling" means to deal, operate,
 15 carry on, conduct, maintain or expose for play any game.

16 (10) "Gaming device" means any mechanical or electronic
 17 contrivance or machine used in connection with gaming or in
 18 connection with any game.

19 (11) "Gaming employee" means any person other than a
 20 licensee who is connected directly with the operation of an
 21 establishment in any way, but does not include bartenders,
 22 cocktail waitresses or other persons engaged in preparing or
 23 serving food or beverages.

24 (12) "Gaming license" means any license issued by the
 25 state of Montana under this act.

1 (13) "Hearing examiner" means a member of the state
 2 gaming control board or other person authorized by the state
 3 gaming control board to conduct investigative hearings.

4 (14) "License" means a gaming license or a
 5 manufacturer's or distributor's license.

6 (15) "License fees" means any moneys required by law to
 7 be paid to obtain or renew a gaming license or
 8 manufacturer's or distributor's license.

9 (16) "Licensed gaming establishment" means any premises
 10 licensed under provisions of this act where gaming takes
 11 place.

12 (17) "Licensee" means any person to whom a valid gaming
 13 license or manufacturer's or distributor's license has been
 14 issued.

15 (18) "Manufacturer" means any person who makes,
 16 fabricates, or produces or reconditions and rebuilds any
 17 device, equipment, material or machine used in gambling.

18 (19) "Member" or "board member" means a member of the
 19 state gaming control board.

20 (20) "Operation" means the conduct of gaming.

21 (21) "Party" means the state gaming control board and
 22 any licensee or other person appearing of record in any
 23 proceeding before the board or in any proceeding for
 24 judicial review of any action, decision or order of the
 25 board.

1 (22) "Person" includes any association, corporation,
2 firm, partnership, trust or other form of business
3 association as well as a natural person.

4 (23) "Punchboard" means a device consisting of a board
5 having numerous holes each containing unexposed slips of
6 paper bearing numbers or symbols, some of which represent a
7 prize, which device is upon payment of any consideration,
8 available to play, by punching therefrom one or more slips,
9 the play of which by reason of the element of chance may
10 entitle the person playing to receive cash, premiums,
11 merchandise, tokens, or anything of value.

12 (24) "Respondent" means any licensee or other person
13 against whom the board has filed a complaint.

14 (25) "Coin-operated machine" means any mechanical,
15 electrical, electronic, or other device, contrivance or
16 machine with player appeal which, upon insertion of a coin,
17 token, or similar object, or upon payment of any
18 consideration, is available to play or operate, the play or
19 operation of which, whether by reason of the skill of the
20 operator or application of the element of chance, or both,
21 may deliver or entitle the person playing or operating the
22 machine to receive cash, premiums, merchandise, tokens or
23 anything of value, other than free plays, whether the payoff
24 is made automatically from the machine or in any other
25 manner, and does not include what is commonly known as slot

1 machines which contain three (3) or more rotating wheels,
2 whether operated mechanically or electronically.

3 (26) "Warehouse" means a building owned or operated by
4 a licensed distributor for the receiving, storage, repair,
5 maintenance and distribution of devices, equipment,
6 materials, or machines used in gambling from such location,
7 as permitted by this act.

8 (27) "Work permit" means any card, certificate or
9 permit issued by the board, authorizing the employment of
10 the holder as a gaming employee.

11 Section 4. Board — allocation. There is created a
12 state gaming control board, which board is allocated to the
13 department of law enforcement and public safety for
14 administrative purposes only. This board consists of the
15 attorney general, chairman, the secretary of state, and
16 three (3) persons appointed by the governor, with the advice
17 and consent of the senate. Each of the members appointed by
18 the governor shall:

19 (1) have been a resident of Montana for a period of at
20 least five (5) years prior to the effective date of his
21 appointment;

22 (2) be a citizen of the United States;

23 (3) hold no office (except notary public or in the
24 militia) under the United States or this state at the time
25 of his appointment or during his continuance in office;

1 (4) serve at the pleasure of the governor;

2 (5) before entering upon the duties of his office
3 subscribe to, and file with the secretary of state, the
4 constitutional oath of office; and

5 (6) swear that he is not pecuniarily interested in any
6 business or organization holding a gaming license or doing
7 business with a person or organization so interested. No
8 more than three (3) members of the board, including the
9 attorney general and secretary of state, are members of the
10 same political party.

11 Section 5. Full time membership. Each member of the
12 board appointed by the governor shall devote his entire time
13 and attention to the business of the board, shall not pursue
14 any other business or occupation or hold any other office of
15 profit, and shall receive an annual salary in the amount
16 specified by the legislature.

17 Section 6. Reimbursement. All members of the board,
18 including the attorney general and secretary of state, in
19 addition to their salaries, are entitled to reimbursement
20 from the funds of the board for actual necessary expenses
21 incurred in the performance of their official duties.

22 Section 7. Attorney general — duties. The attorney
23 general is the legal adviser for and the chief law
24 enforcement officer of the board, as chief law enforcement
25 officer the attorney general may in his discretion direct

1 the appropriate county attorney to prosecute violations of
2 this act or prosecute them directly in any district court
3 without referral to the county attorney. He shall designate
4 one of his assistants or deputies to serve full time as
5 legal adviser for the board, and that assistant or deputy
6 shall devote his entire time and attention to the business
7 of the board and shall not engage in the private practice of
8 law. The salary and travel and per diem expenses of this
9 assistant or deputy attorney general shall be paid from
10 funds appropriated to the board for that purpose by the
11 legislature.

12 Section 8. Office — meetings. The office of the board
13 shall be at the seat of government in Helena. Regular and
14 special meetings of the board may be held, at the discretion
15 of the board, at times and places as it deems convenient or
16 necessary, but at least one (1) regular meeting shall be
17 held each month in Helena. Public notice of the time and
18 place of special meetings shall be given at least seven (7)
19 days prior to the meeting. All meetings of the board are
20 open to the public. A majority of the members present at
21 any meeting determines the action of the board.
22 Investigative hearings may be conducted by one (1) or more
23 members, with the concurrence of the attorney general and at
24 least two (2) other members of the board, without notice at
25 times and places, within or without the state of Montana, as

1 the member or members consider convenient or necessary.
 2 These investigative hearings may be conducted in private at
 3 the discretion of the member or members conducting them.

4 Section 9. Records. (1) The board (a) shall make and
 5 keep a record of all proceedings of regular and special
 6 meetings of the board, which records are open to public
 7 inspection; (b) shall keep and maintain a file of all
 8 applications for licenses under this act, together with a
 9 record of all actions taken with respect to those
 10 applications, which file and record are open to public
 11 inspection; and (c) may maintain other files and records as
 12 it considers desirable.

13 (2) All information and data furnished to the board
 14 relative to the earnings or revenue of the applicant or
 15 licensee is confidential and shall not be revealed in whole
 16 or in part except as follows:

17 (a) in the course of the necessary administration of
 18 this act;

19 (b) upon the lawful order of a court of competent
 20 jurisdiction;

21 (c) to a duly authorized agent of the federal bureau
 22 of investigation, the United States treasury department or
 23 the commissioner of the internal revenue service of the
 24 United States under rules and regulations adopted by the
 25 board.

1 (3) All information and data pertaining to an
 2 applicant's criminal record, antecedents and background,
 3 other than financial, furnished to or obtained by the board
 4 from any source, may be considered confidential and may be
 5 withheld in whole or in part, except that any information
 6 shall be released upon lawful order of competent
 7 jurisdiction.

8 (4) Notice of the content of any information or data
 9 furnished or released under subsections (2) and (3) of this
 10 section shall be given to any applicant or licensee in a
 11 manner prescribed by rules adopted by the board.

12 (5) All files, records, reports and other information
 13 pertaining to gaming matters in the possession of the
 14 department of revenue or state board of equalization shall
 15 be made available to the state gaming control board as
 16 necessary to the administration of this act.

17 Section 10. Board — duties. (1) The provisions of
 18 this act with respect to state gaming licenses and
 19 manufacturer's and distributor's licenses shall be
 20 administered by the state gaming control board which shall
 21 administer them for the protection of the public and in the
 22 public interest in accordance with policy of this state.

23 (2) The board shall investigate the qualifications of
 24 each applicant for licenses under this act before any
 25 license is issued and shall continue to observe the conduct

1 of all licensees to the end that licenses shall not be
 2 issued to nor held by unqualified or disqualified persons or
 3 unsuitable persons or persons whose operations are conducted
 4 in an unsuitable manner or for unsuitable or prohibited
 5 places or locations. The board has full and absolute power
 6 and authority to deny an application for license, or to
 7 limit, condition, restrict, revoke or suspend a license, for
 8 any cause reasonable to the board.

9 (3) The board and its agents, inspectors and employees
 10 have the authority:

11 (a) to inspect and examine all premises wherein gaming
 12 is conducted or gambling devices or equipment are
 13 manufactured, reconditioned, rebuilt, sold, distributed,
 14 repaired or maintained;

15 (b) to inspect all equipment and supplies in, upon or
 16 about those premises;

17 (c) summarily to seize and remove from those premises
 18 and impound any equipment or supplies for the purpose of
 19 examination and inspection;

20 (d) to demand access to and inspect, examine and audit
 21 all papers, books and records of applicants and licensees
 22 respecting the gross income produced by any gaming business,
 23 and require verification of income, and all other matters
 24 affecting the enforcement of the policy or any of the
 25 provisions of this act.

1 (4) For the purpose of the administration of this act,
 2 the board and the executive, supervisory and investigative
 3 personnel of the board have the powers of a peace officer of
 4 the state of Montana. The provisions of this subsection do
 5 not constitute these individuals as peace officers for any
 6 other purpose.

7 (5) The board or any member thereof has full power and
 8 authority to issue subpoenas and compel the attendance of
 9 witnesses at any place within this state, to administer
 10 oaths and to require testimony under oath. Any process or
 11 notice may be served in the manner provided for service of
 12 process and notices in civil actions. The board may pay
 13 transportation and other expenses of witnesses as it
 14 considers reasonable and proper. Any person making false
 15 oath in any matter before the board is guilty of perjury.

16 Section 11. Board — adoption of rules. (1) The board
 17 shall adopt, amend or repeal rules consistent with the
 18 policy, objects and purposes of this chapter, as it
 19 considers necessary or desirable in the public interest to
 20 carry out the policy and provisions of this act.

21 (2) These rules shall include, without limiting the
 22 general powers of the board, the following:

23 (a) prescribing the method and form of application
 24 which an applicant for a gaming license or for a
 25 manufacturer's or distributor's license shall follow and

1 complete prior to consideration of his application by the
2 board;

3 (b) prescribing the information to be furnished by an
4 applicant or licensee concerning that person's antecedents,
5 habits, character, associates, criminal record, business
6 activities and financial affairs;

7 (c) requiring fingerprinting of an applicant or
8 licensee or employee of a licensee or other methods of
9 identification;

10 (d) prescribing the manner and procedure of all
11 hearings conducted by the board or any hearing examiner of
12 the board, including special rules of evidence applicable
13 thereto and notices thereof;

14 (e) requiring an applicant to pay all of the fees and
15 costs of investigation of that applicant;

16 (f) prescribing the manner and method of collection
17 and payment of fees and issuance of licenses;

18 (g) defining and limiting the area, games and devices
19 permitted, and the method of operation of games and devices
20 for the purposes of this chapter;

21 (h) prescribing the manner in which a licensee's
22 financial records shall be kept and accounted for, including
23 the designation of the number of depositories which a
24 licensee may employ;

25 (i) prescribing under what conditions the nonpayment

1 of a gambling debt by a licensee shall be considered grounds
2 for revocation or suspension of his license;

3 (j) governing the manufacture, sale and distribution
4 of gambling devices and equipment;

5 (k) requiring an applicant or licensee to waive a
6 privilege with respect to any testimony at any hearing or
7 meeting of the board, except a privilege afforded by the
8 constitutions of the United States or this state;

9 (l) prescribing the qualifications of, and the
10 conditions under which attorneys, accountants and others
11 shall be permitted to practice before the board.

12 Section 12. Board — procedural rules — hearings. (1)
13 The board shall adopt, amend and repeal rules in accordance
14 with the following procedures:

15 (a) At least thirty (30) days prior to the adoption,
16 amendment or repeal of a rule, notice of the proposed action
17 shall be:

18 (i) published in a newspaper the board designates;

19 (ii) mailed to every person who has filed a request
20 therefor with the board; and

21 (iii) when the board considers advisable, mailed to a
22 person whom the board believes would be interested in the
23 proposed action, and published in additional form and manner
24 as the board may prescribe.

25 (b) The notice of proposed adoption, amendment or

1 repeal shall include:

2 (i) a statement of the time, place and nature of the
3 proceedings for adoption, amendment or repeal;

4 (ii) reference to the authority under which the action
5 is proposed; and

6 (iii) either the express terms or an informative
7 summary of the proposed action.

8 (c) On the date and at the time and place designated
9 in the notice, the board shall afford any interested person
10 or his duly authorized representative, or both, the
11 opportunity to present statements, arguments, or contentions
12 in writing, with or without opportunity to present the same
13 orally. The board shall consider all relevant matter
14 presented to it before adopting, amending or repealing a
15 rule.

16 (d) Any interested person may file a petition with the
17 board requesting the adoption, amendment or repeal of a
18 rule. This petition shall state, clearly and concisely:

19 (i) the substance or nature of the regulation,
20 amendment or repeal requested;

21 (ii) the reasons for the request; and

22 (iii) reference to the authority of the board to take
23 the action requested. Upon receipt of the petition, the
24 board shall within thirty (30) days deny the request in
25 writing or schedule the matter for action under this

1 subsection.

2 (e) In emergencies, the board may summarily adopt,
3 amend or repeal any rule, if at the same time it promulgates
4 a finding that the action is necessary for the immediate
5 preservation of the public peace, health, safety, morals,
6 good order or general welfare, together with a statement of
7 facts constituting the emergency.

8 (2) In any hearing under this section, the board or
9 its duly authorized representative has authority to
10 administer oaths or affirmations, and may continue or
11 postpone that hearing from time to time and at a place it
12 prescribes.

13 (3) The board or any applicant or licensee may obtain
14 a judicial determination of a question of construction or
15 validity arising under this chapter or any regulation of the
16 board by bringing an action for a declaratory judgment in
17 the first judicial district court of the state of Montana,
18 in and for the county of Lewis and Clark. A question of
19 construction or validity of this act or rule of the board is
20 a justifiable controversy.

21 Section 13. Ejectment list. (1) The board may by
22 regulation provide for the establishment and distribution to
23 all licensees a list of persons who are to be excluded or
24 ejected from any licensed gaming establishment. This list
25 may include any person:

1 (a) who is of notorious or unsavory reputation;
 2 (b) who has been convicted of a crime which is a
 3 felony in the state of Montana or under the laws of the
 4 United States or a crime involving moral turpitude; or

5 (c) whose presence in a licensed gaming establishment
 6 would, in the opinion of the board, be inimical to the
 7 interests of the state of Montana, or of licensed gambling,
 8 or both.

9 (2) Race, color, creed, national origin or ancestry,
 10 or sex shall not be grounds for placing the name of a person
 11 upon such list.

12 (3) Any list compiled by the board of persons to be
 13 excluded or ejected shall not be deemed an all-inclusive
 14 list, and licensed gaming establishments have a duty to keep
 15 from their premises persons known to them to be inimical to
 16 the interests of the state of Montana or of licensed
 17 gambling, or both.

18 Section 14. Ejection list — notice to individual.
 19 Whenever the name and description of any person is placed on
 20 a list under section 13, the board shall serve notice of
 21 this fact to the person either by:

- 22 (1) personal service,
- 23 (2) certified mail to the last-known address of that
- 24 person, or
- 25 (3) publication daily for one (1) week in a newspaper

1 published and circulated in the area of his last-known
 2 address.

3 Section 15. Ejection — appeal. (1) Within thirty
 4 (30) days after service by mail or in person or sixty (60)
 5 days from the time of the first publication, as provided in
 6 section 14, the person named may demand a hearing before the
 7 board and show cause why he should have his name taken from
 8 the list. Failure to demand a hearing within the time
 9 allotted in this section precludes the person from an
 10 administrative hearing, but does not affect his right to
 11 petition for judicial review as provided in section 44 of
 12 this act.

13 (2) Upon receipt of a demand for hearing, the board
 14 shall set a time for the hearing. The hearing shall be held
 15 in the offices of the board at Helena. A hearing shall be
 16 held not later than thirty (30) days after receipt of
 17 demand, unless the time and place of the hearing is changed
 18 by agreement of the board and the person demanding the
 19 hearing.

20 (3) If, upon completion of the hearing the board
 21 determines that:

- 22 (a) The regulation does not or should not apply to the
- 23 person so listed, the board shall notify all persons
- 24 licensed under this act of that determination.
- 25 (b) Placing the person on the exclusion or ejection

1 list was proper, the board shall make and enter in its
 2 minutes an order to that effect. This order is subject to
 3 review by any court of competent jurisdiction in accordance
 4 with the provisions for judicial review set forth in section
 5 44 of this act.

6 Section 16. Ejection — failure of licensee to act.
 7 The board may revoke, limit, condition, suspend or fine the
 8 licensed gaming establishment of individual licensee, in
 9 accordance with the laws of the state of Montana and the
 10 regulations of the board, if a licensed gaming establishment
 11 or any individual licensee knowingly fails to exclude or
 12 eject from the premises of any licensed gaming establishment
 13 any person placed on the list of persons to be excluded or
 14 ejected.

15 Section 17. Ejection — ejected person — violation.
 16 Any person who has been placed on the list of persons to be
 17 excluded or ejected from any licensed gaming establishment
 18 under section 13 is guilty of a misdemeanor if he enters the
 19 premises of a licensed gaming establishment without first
 20 obtaining a determination by the board that he should not
 21 have been placed on the list of persons to be excluded or
 22 ejected.

23 Section 18. Regulation of licensee fiscal matters. The
 24 board shall by regulation: (1) prescribe minimum procedures
 25 for adoption by each licensee to exercise effective control

1 over its internal fiscal affairs, which shall include but
 2 are not limited to provisions for:

3 (a) the safeguarding of its assets and revenues,
 4 especially the recording of cash and evidences of
 5 indebtedness; and

6 (b) the provision of reliable records, accounts and
 7 reports of transactions, operations and events, including
 8 reports to the board; and

9 (2) provide for the adoption and use of internal
 10 audits, whether by qualified internal auditors or by
 11 accountants holding a permit to practice public accounting,
 12 in the case of each licensee whose operation equals or
 13 exceeds a specified size. As used in this subsection
 14 "internal audit" means a type of control which operates
 15 through the testing and evaluation of other controls and
 16 which is also directed toward observing proper compliance
 17 with the minimum standards of control prescribed pursuant to
 18 subsection (1).

19 Section 19. Financial reports. The board shall by
 20 regulation require periodic financial reports from each
 21 licensee, and:

22 (1) specify standard forms for reporting financial
 23 condition, results of operations and other relevant
 24 financial information;

25 (2) formulate a uniform code of accounts and

1 accounting classifications to assure consistency,
2 comparability and effective disclosure of financial
3 information;

4 (3) prescribe the intervals at which this information
5 shall be furnished. For this purpose the board may classify
6 licensees by size of operation.

7 Section 20. Required audits. (1) The board shall by
8 regulation require audits of the financial statements of all
9 licensees with an annual gross revenue of one million
10 dollars (\$1,000,000) or more. These audits shall be made
11 not less frequently than once a year and whenever the
12 ownership of this type of license changes.

13 (2) The board may require audits of the financial
14 statements of licensees with an annual gross revenue of less
15 than one million dollars (\$1,000,000) and whenever the
16 ownership of that license changes.

17 (3) The audits provided for in subsections (1) and (2)
18 shall be made at the expense of the licensees by independent
19 accountants holding permits to practice public accounting in
20 the state of Montana.

21 (4) Regulations for audits shall require, among other
22 things, that:

23 (a) The independent accountants shall submit an audit
24 report which shall express an unqualified or qualified
25 opinion or, if appropriate, disclaim an opinion on the

1 statements taken as a whole in accordance with standards for
2 the accounting profession established by rules and
3 regulations of the Montana state board of public
4 accountants, but the preparation of statements without audit
5 does not constitute compliance.

6 (b) The examination and audit shall disclose whether
7 the accounts, records and control procedures maintained by
8 the licensee are as required by the regulations published by
9 the board under this act.

10 Section 21. Penalties for noncompliance with rules.
11 The board shall by regulation prescribe a scale of
12 penalties, financial and otherwise, to be imposed on
13 licensees for noncompliance with its regulations.

14 Section 22. Audit regulations. The board shall by
15 regulation provide for:

16 (1) the organization of the board's audit function in
17 conformity with other accounting and auditing provisions of
18 its regulations and with acceptable and modern auditing
19 practices;

20 (2) the organization and administration of an economic
21 research and planning function by a central body which shall
22 gather, evaluate and disseminate facts regarding the
23 economics of the gaming industry and economic conditions
24 affecting the industry. The regulations shall include
25 provision for the organizational status of this body, its

1 staffing structure, and a budget for its operation.

2 Section 23. Violation — penalty. (1) It is unlawful
3 for any person, either as owner, lessee or employee, whether
4 for hire or not, to operate, carry on, conduct or maintain
5 in the state of Montana any form of manufacture, rebuilding,
6 reconditioning, selling or distribution of any device,
7 equipment, material or machine used in gambling, without
8 having first procured a license for manufacture, rebuilding,
9 reconditioning, selling or distribution as provided in this
10 act.

11 (2) Violation of the provisions of this section is a
12 felony, punishable upon conviction by imprisonment in the
13 state prison for not less than five (5) years and not more
14 than ten (10) years, and no court has authority to suspend
15 or defer sentence or to place any person convicted hereunder
16 on probation.

17 (3) Any person whom the commission determines to be a
18 suitable person to receive a license under the provisions of
19 this act, having due consideration for the proper protection
20 of the public health, safety, morals, good order and general
21 welfare of the inhabitants of the state of Montana, may be
22 issued a manufacturer's or distributor's license. The
23 burden of providing his qualifications to receive or hold
24 any license under this act is on the applicant or licensee.

25 Section 24. License required — manufacture. A person

1 desiring to manufacture, rebuild or recondition any device,
2 equipment, material or machine used in gambling, under this
3 act, shall first apply to the board for a license, and
4 tender the license fee prescribed, together with so much of
5 the anticipated fees and costs of investigation of that
6 applicant as required by the board. Upon being satisfied
7 from the application, or otherwise, that this applicant is
8 qualified in accordance with this act and the regulations of
9 the board, the board shall issue a license to that person.
10 The license shall be prominently displayed in the place of
11 business of the licensee; and thereafter a licensed
12 manufacturer is entitled to manufacture, rebuild, or
13 recondition devices, equipment, materials or machines used
14 in gambling and to sell them within this state to
15 distributors licensed under this act or for use outside this
16 state in conformity to applicable laws of the United States.
17 If the board finds that the applicant is not qualified, no
18 license may be granted and the license fee tendered shall be
19 returned, together with that portion, if any, of the
20 anticipated fees and costs of investigation which were not
21 used in the investigation of the applicant.

22 Section 25. License required — distribute. Any
23 person desiring to sell, lease, repair, maintain and
24 distribute any device, equipment, material, or machine used
25 in gambling, under this act, shall first apply to the board

1 for a license and tender the license fee prescribed,
2 together with so much of the anticipated fees and costs of
3 investigation of that applicant as required by the board.
4 To qualify for a distributor's license the applicant shall
5 have been a resident of Montana for a period of two (2)
6 years immediately prior to making application, or if the
7 applicant is a Montana corporation that corporation shall
8 have been organized for a period of two (2) years
9 immediately prior to application; provided, however, any
10 individual or partnership which has been licensed as a
11 distributor may, upon incorporation in accordance with the
12 laws of the state of Montana, transfer a license to the
13 corporation if a majority of the capital stock thereof is
14 held by the individual or the members of the partnership.
15 That applicant shall have a fixed place of business,
16 sufficient capital, and properly safeguarded facilities,
17 storehouse, receiving house, or warehouse for the receiving
18 of, storage, repair and maintenance, and handling of
19 wholesale quantities of devices, equipment, materials, or
20 machines used in gambling for distribution, lease, or sale
21 to other licensed distributors and gaming licensees. After
22 being satisfied from an application, or otherwise, that the
23 applicant is qualified in accordance with this act and the
24 regulations of the board, the board shall issue a license to
25 the person, which license shall be at all times prominently

1 displayed in the place of business of the licensee; and
2 thereafter the licensed distributor shall be privileged to
3 sell, lease, and distribute devices, equipment, materials,
4 and machines used in gambling to other licensed distributors
5 and gaming licensees and to repair and maintain devices,
6 equipment, materials and machines. If the board finds that
7 the applicant is not qualified, no license may be granted
8 and the license fee tendered shall be returned, together
9 with that portion, if any, of the anticipated fees and costs
10 of investigation which were not used in the investigation of
11 the applicant.

12 Section 26. Report by licensed wholesaler. In order
13 to control and regulate the traffic in devices, equipment,
14 materials, and machines used in gambling, and thereby
15 protect the public health, safety, morals and good order and
16 general welfare of the inhabitants of the state of Montana,
17 all devices, equipment, materials and machines used in
18 gambling, whether manufactured, rebuilt or reconditioned
19 within or outside the state of Montana, shall be consigned
20 and shipped by a licensed manufacturer to a distributor
21 licensed under this act and unloaded into that distributor's
22 warehouse in Montana. The distributor shall keep records at
23 his warehouse of all devices, equipment, materials, and
24 machines used in gambling which he receives, including the
25 names and kinds received, serial numbers or other

1 identifying characters or symbols where applicable, and the
 2 names and addresses of the licensed distributors and gaming
 3 licensees to whom these devices, equipment, materials, and
 4 machines are sold or leased. These records shall be
 5 available for inspection at all times by any member or
 6 representative of the board.

7 Every distributor licensed hereunder shall make, on or
 8 before the fifteenth day of each January, April, July and
 9 October, an exact return to the board of all devices,
 10 equipment, materials and machines used in gambling which he
 11 received and sold or leased during the previous calendar
 12 quarter; the serial numbers or other identifying characters
 13 or symbols where applicable, and the names and addresses of
 14 the purchasers of lessees in the manner and on a form the
 15 board prescribes, and the board, at any time, may examine a
 16 distributor's books and premises and otherwise check the
 17 accuracy of a return.

18 Failure by a distributor to make a return required
 19 hereunder or falsification by a distributor of any material
 20 fact contained in a return shall be punished by the board by
 21 suspension of license for a period not exceeding sixty (60)
 22 days; and upon a second failure or falsification the board
 23 shall revoke the license.

24 Section 27. License fee — manufacturer — distributor
 25 — expiration. (1) Each manufacturer, wherever located,

1 whose product is sold or offered for sale to a licensed
 2 distribuotr within this state, shall pay, on or before the
 3 first day of July, an annual license fee of three thousand
 4 five hundred dollars (\$3,500).

5 (2) Each distributor licensed hereunder shall pay, on
 6 or before the first day of July, an annual license fee of
 7 two thousand dollars (\$2,000).

8 (3) All licenses issued in any year shall expire on
 9 June 30 at midnight. Regardless of the date of application
 10 or issuance of the license, the fee to be charged and
 11 collected under this section shall be the full annual fee.

12 Section 28. Legislative findings and declarations —
 13 special fee. (1) The legislature finds and declares as
 14 facts:

15 (a) that the inspection of electronic and mechanical
 16 devices and all other equipment and materials used in
 17 gambling is essential to carry out the provisions of this
 18 act; and

19 (b) that an inspection is greatly facilitated in the
 20 case of devices, equipment and materials manufactured within
 21 this state by the opportunity to inspect components prior to
 22 assembly and to examine the methods of manufacture.

23 (2) The board or its authorized representatives may
 24 inspect every device or machine used in gambling, and all
 25 other equipment or materials which are manufactured, sold or

1 distributed:

2 (a) for use in this state, before the device,
3 equipment or materials are put into play;

4 (b) in this state for use outside this state, before
5 the device, equipment or materials are shipped out of this
6 state.

7 (3) In addition to all other fees and charges imposed
8 by this act, the board may determine, charge and collect an
9 inspection fee from each manufacturer, seller or distributor
10 which shall not exceed the actual cost of inspection and
11 investigation.

12 Section 29. Prohibitions. It is unlawful for any
13 person, either as owner, lessee or employee, whether for
14 hire or not, either solely or in conjunction with others:

15 (a) to deal, operate, carry on, conduct, maintain or
16 expose for play in the state of Montana any game or
17 coin-operated machine as defined in this act;

18 (b) to provide or maintain any information service the
19 primary purpose of which is to aid the placing or making of
20 wagers on events of any kind; or

21 (c) to receive, directly or indirectly, any
22 compensation or reward or any percentage or share of the
23 money or property played, for keeping, running or carrying
24 on any game or coin-operated machine without having first
25 procured, and thereafter maintaining in full force and

1 effect, all federal and state gaming licenses as required by
2 statute.

3 (2) It is unlawful for any person to lend, let, lease
4 or otherwise deliver or furnish any equipment of any
5 gambling game, including any coin-operated machine, for any
6 interest or any percentage or share of the money or property
7 played, under guise of any agreement whatever, without
8 having first procured a state gaming license for that
9 purpose.

10 (3) It is unlawful for any person to lend, let, lease
11 or otherwise deliver or furnish, except by a bona fide sale,
12 any coin-operated machine under guise of any agreement
13 whatever where a consideration is paid or is payable for the
14 right to possess or use that coin-operated machine, whether
15 the consideration is measured by a percentage of the revenue
16 derived from that machine or by a fixed fee or otherwise,
17 without having first procured a state gaming license for
18 that machine.

19 (4) It is unlawful for a person to furnish services or
20 property, real or personal, on a contract, lease or license
21 basis, under which a person receives payment based on
22 earnings or profits or otherwise from any gambling game,
23 including any coin-operated machine, without having first
24 procured a state gaming license.

25 (5) Any person who knowingly permits any gambling

1 game, coin-operated machine or device to be conducted,
 2 operated, dealt or carried on in any house or building or
 3 other premises owned by him, in whole or in part, except by
 4 a person who is licensed hereunder, or his employee, is
 5 guilty of a felony, and upon conviction is subject to the
 6 penalties set forth in section 46 of this act and the house
 7 or building or other premises shall be closed for a minimum
 8 period of one (1) year.

9 (6) Any licensee who puts additional games or
 10 coin-operated machines into play or displays games or
 11 coin-operated machines in a public area without authority of
 12 the board to do so is subject to the penalties provided in
 13 section 46 of this act.

14 (7) The provisions of subsections (2), (3) and (4) do
 15 not apply to any person:

16 (a) whose payments are a fixed sum determined in
 17 advance on a bona fide basis for the furnishing of services
 18 or property other than a coin-operated machine;

19 (b) who furnishes services or property under a bona
 20 fide rental agreement or security agreement for gaming
 21 equipment.

22 (8) The board may determine the suitability, or may
 23 require the licensing, of any person who furnishes services
 24 or property to a state gaming licensee under any arrangement
 25 under which that person receives payment based on earnings,

1 profits or receipts from gaming. The board may require a
 2 person to comply with the requirements of this act and with
 3 the regulations of the board. If the board determines that
 4 a person is unsuitable, it shall require the arrangement to
 5 be terminated.

6 Section 30. License application. Any person desiring
 7 a state gaming license shall first apply to the board for a
 8 license and tender with the application the prescribed
 9 license fee, together with that portion of the anticipated
 10 fees and costs of investigation of the applicant required by
 11 the board. The burden of proving his qualification to
 12 receive or hold license is on the applicant or licensee.

13 To qualify for a gaming license the applicant shall
 14 have been a resident of Montana for a period of two (2)
 15 years immediately prior to making application, or if the
 16 applicant is a Montana corporation that corporation shall
 17 have been organized for a period of two (2) years
 18 immediately prior to making application; provided, however,
 19 any individual or partnership which has been licensed under
 20 this act, upon incorporation in accordance with the laws of
 21 the state of Montana, may transfer the license to the
 22 corporation if a majority of the capital stock of that
 23 corporation is held by the individual or the members of the
 24 partnership.

25 Application for a gaming license shall be made to the

1 board on forms furnished by the board and in accordance with
2 rules of the board.

3 The application shall set forth:

- 4 (1) the name of the proposed licensee;
5 (2) the location of his fixed place of business;
6 (3) the names and addresses of all persons directly or
7 indirectly interested in the business and the nature and
8 extent of that interest;
9 (4) the amount of unencumbered capital in the
10 business; and
11 (5) other information and details the board requires
12 in order to discharge its duties.

13 The board shall furnish to the applicant supplemental forms
14 which the applicant shall complete and file with the
15 application. These supplemental forms shall require, but
16 shall not be limited to, complete information and details
17 with respect to the applicant's antecedents, habits,
18 character, criminal record, business activities, financial
19 affairs and business activities, financial affairs and
20 business associates, covering at least a ten (10) year
21 period immediately preceding the date of filing of the
22 application.

23 No limited or general partnership, business trust or
24 organization or other association of a quasi-corporate
25 character is eligible to receive or hold a gaming license

1 unless all persons having any direct or indirect interest
2 therein of any nature, whether financial, administrative,
3 policymaking, or supervisory, are individually qualified to
4 be licensed under this act.

5 Upon being satisfied from the application, or
6 otherwise, that an applicant is qualified in accordance with
7 this act and the rules of the board, the board shall issue a
8 license to the person, license shall be displayed
9 prominently in the place of business of a licensee; and
10 thereafter a gaming licensee is entitled to engage in gaming
11 under this act.

12 The board has full and absolute power and authority to
13 deny an application for a license for any reasonable cause.
14 If the board finds that an applicant is not qualified, no
15 license may be granted and the tendered license fee shall be
16 returned together with that portion, if any, of the
17 anticipated fees and costs of investigation which were not
18 used in the investigation of the applicant.

19 Section 31. License fees. Each gaming licensee
20 licensed in accordance with this act shall pay, on or before
21 the first day of July, an annual basic license fee as
22 follows:

- 23 (1) except as hereinafter provided, for each gaming
24 license outside of incorporated cities and towns, or in
25 incorporated cities and towns with a population of less than

1 two thousand (2,000), two hundred dollars (\$200) per annum;

2 (2) except as hereinafter provided, for each gaming
3 license in incorporated cities with a population of more
4 than two thousand (2,000) and less than five thousand
5 (5,000), or within a distance of five (5) miles thereof,
6 three hundred dollars (\$300) per annum;

7 (3) except as hereinafter provided, for each gaming
8 license in incorporated cities with a population of more
9 than five thousand (5,000) and less than ten thousand
10 (10,000), or within a distance of five (5) miles thereof,
11 four hundred fifty dollars (\$450) per annum;

12 (4) except as hereinafter provided, for each gaming
13 license in incorporated cities with a population of ten
14 thousand (10,000) or more, or within a distance of five (5)
15 miles thereof, six hundred dollars (\$600) per annum.

16 (5) the distance of five (5) miles from the corporate
17 limits of any incorporated cities and town shall be
18 measured in a straight line from the nearest entrance of the
19 premises to be licensed to the nearest boundary of the city
20 or town, and where the premises of the applicant to be
21 licensed are situated within five (5) miles of the corporate
22 boundaries of two (2) or more incorporated cities or towns
23 of different populations the license chargeable by reason of
24 the larger incorporated city or town applies; provided,
25 however, that when the premises of the applicant to be

1 licensed are situated within an incorporated city or town
2 and any portion of that incorporated city or town is without
3 the five (5) mile limit then the license fee chargeable by
4 reason of the smaller incorporated city or town applies.

5 The census taken under the direction of the congress of
6 the United States in the year 1970, and every ten (10) years
7 thereafter, is the basis upon which the respective
8 populations of a municipality shall be determined, provided,
9 however, no census taken shall be a basis until it has been
10 officially published by entity which performed the census;
11 then its effect is from the date of publication, provided,
12 further, that none of the provisions of this act are to
13 operate retroactively.

14 In addition to the basic gaming license fee provided
15 above, the board shall charge and collect on or before the
16 first day of July, from each applicant an annual games
17 license fee to be determined and paid in advance on the
18 following basis: One hundred dollars (\$100) per game
19 exclusive of punchboards and coin-operated machines proposed
20 to be operated.

21 Both the basic gaming license and the games license
22 shall be at all times prominently displayed in the place of
23 business of a licensee.

24 All of the licenses issued in any year expire on the
25 30th day of June at midnight. Regardless of the date of

1 application or issuance of the license, the fee to be
2 charged and collected for the licenses under this act is the
3 full annual fee.

4 If the applicant for a basic gaming license proposes to
5 operate coin-operated machines, either alone or in
6 conjunction with other games, the board shall charge and
7 collect from that applicant an additional license fee of
8 fifty dollars (\$50) for each coin-operated machine for each
9 quarter year. The board shall charge and collect this fee:

10 (a) on or before the last day of the last month in a
11 calendar quarter for the ensuing calendar quarter, from a
12 licensee whose operation is continuing, and

13 (b) in advance from a licensee who begins operation or
14 puts additional coin-operated machines into play during a
15 calendar quarter.

16 No proration of a fee may be allowed for any reason.
17 The gaming licensee who is the operator of the location
18 where coin-operated machines are situated shall pay the fee
19 upon the total number of coin-operated machines situated in
20 a location, whether all machines are owned by one or more
21 licensee-owners. The total number of coin-operated machines
22 shall be computed in the same manner as is used by the
23 United States of America in imposing the federal tax
24 provided by 26 U.S.C. section 4461.

25 Section 32. Special events — holidays. (1) As used

1 in this section, "holidays" or "special events" refer to
2 periods during which the influx of tourist activity in this
3 state or an area of this state may require additional gaming
4 industry accomodation, as determined by the board.

5 (2) A gaming licensee holding a valid license under
6 this act may apply to the board, on application forms
7 prescribed by the board, for a holiday or special event
8 permit for the purpose of increasing the licensee's game
9 operations during holidays or special events.

10 (3) The application shall be filed with the board at
11 least ten (10) days prior to the date when games are to be
12 added.

13 (4) If the board approves the application, it shall
14 issue to the licensee a permit to operate additional games,
15 not to exceed twenty-five percent (25%) of the number of
16 games operated by the licensee at the time the application
17 is filed. The permit shall state the period for which it is
18 issued and the number of additional games allowed. For
19 purposes of computation, any fractional game shall be
20 counted as one (1) full game. The licensee shall present
21 permit on the demand of any inspecting agent of the board.

22 (5) Before issuing a permit, the board shall charge
23 and collect from the licensee a fee of fifteen dollars (\$15)
24 per game per day for each day the permit is effective. This
25 fee is in lieu of the fees required under section 31 of this

1 act.

2 (6) A permit may not be issued to any licensee for
3 more than forty (40) cumulative days during any calendar
4 year, nor for a period longer than ten (10) days during any
5 calendar quarter year. A ten (10) day period during a
6 calendar quarter year may be consecutive or divided into two
7 (2) lesser periods. For the purposes of computation, one
8 (1) day is equal to a twenty-four (24) hour period.

9 (7) If any additional games are not removed at the
10 time the permit expires, the licensee is subject to the fees
11 provided for in section 31 of this act and all other
12 applicable provisions of this chapter.

13 Section 33. Religious and charitable games. The board
14 may approve the operation of a game or games by a religious,
15 charitable or educational organization subject to conditions
16 and limitations the board imposes but no approval may be
17 given by the board for the operation of a game or games for
18 more than one (1) event or function conducted or sponsored
19 by one religious, charitable or educational organization
20 during any one (1) quarter calendar year.

21 Section 34. Fee equal to tax credit. (1) In addition
22 to any other license fees and taxes imposed by this chapter,
23 there is imposed upon each coin-operated machine operated in
24 this state a tax equal to the amount of any credit which may
25 be allowed against the tax imposed on those machines by 26

1 U.S.C. section 4461 or other federal statute for the payment
2 of a state tax. If no credit is allowed, no tax is payable
3 under this subsection.

4 (2) The board shall:

5 (a) collect the tax annually in advance, prior to June
6 20, as a condition precedent to the issuance of a state
7 gaming license to operate any coin-operated machine;

8 (b) include the proceeds of the tax in its reports of
9 state gaming taxes collected.

10 (3) The board shall pay over the tax as collected to
11 the state treasurer to be deposited to the credit of the
12 state school fund.

13 Section 35. Taxes on punchboards. (1) A tax of three
14 percent (3%) of the gross retail value of all possible plays
15 is levied and imposed on each and every punchboard sold in
16 this state. Each licensed manufacturer shall furnish to the
17 board a copy of each invoice covering sales and shipments of
18 punchboards to licensed distributors at the time of sale and
19 shipment, and the tax shall be paid by a licensed
20 manufacturer at that time.

21 (2) Each punchboard marketed and used in this state
22 shall bear three (3) borders, one (1) along each vertical
23 edge of the face and another across the top of the face, on
24 which borders shall be continuous printed declarations of
25 the value of punches, that is, for example,

1 ~~5¢-5¢-5¢-5¢-5¢-5¢~~; and each board shall bear a border across
 2 the bottom of its face carrying the following declaration:
 3 "The Montana tax paid on this board is \$_____." The board
 4 may by regulation designate the manner and size of printing,
 5 embossing, engraving, or otherwise applying the borders and
 6 may specify additional identifying symbols or seals to
 7 safeguard against counterfeiting punchboards.

8 Section 36. Refund of erroneously collected fees and
 9 taxes. State gaming license fees erroneously collected may
 10 be refunded, upon the approval of the board, as other claims
 11 against the state are paid.

12 Section 37. Willful evasion of tax or fee. A person
 13 who willfully fails to report, pay or truthfully account for
 14 and pay over the license fees imposed by this chapter, or
 15 willfully attempts in any manner to evade or defeat any such
 16 tax or payment thereof, or any licensee who puts additional
 17 games or coin-operated machines into play without authority
 18 of the board to do so or any licensee who fails to remit any
 19 license fee provided for by this chapter when due shall in
 20 addition to the amount due be liable for a penalty of twice
 21 the amount of the license fee evaded or not paid over, which
 22 penalty shall be assessed and collected in the same manner
 23 as are other charges, license fees and penalties under this
 24 chapter.

25 Section 38. Declaration of state's exemption from

1 operation of provisions of 15 U.S.C. section 1172. Under
 2 section 2 of the Gambling Devices Transportation Act, 15
 3 U.S.C. 1171 et seq., the state of Montana declares it is
 4 exempt from the provisions of that section of that act.

5 Section 39. Legal shipments of slot machines into the
 6 state of Montana. All shipments of slot machines into this
 7 state, the registering, recording and labeling of which has
 8 been had by the manufacturer or dealer thereof in accordance
 9 with sections 3 and 4 of the Gambling Devices Transportation
 10 Act, 15 U.S.C. 1171 et seq., are legal shipments into this
 11 state.

12 Section 40. Minors may not participate. (1) No
 13 person under the age of eighteen (18) years shall:

14 (a) play, or be allowed to play, any licensed game or
 15 coin-operated machine regulated and licensed by this
 16 chapter;

17 (b) loiter, or be permitted to loiter, in or about any
 18 room or premises wherein any licensed game is operated or
 19 conducted.

20 (2) Any licensee, employee, dealer or other person who
 21 shall knowingly violate or permit the violation of any of
 22 the provisions of this section and any person, under
 23 eighteen (18) years of age, who violates any of the
 24 provisions of this section is guilty of a misdemeanor.

25 Section 41. Confidential records — work permits.

1 (1) The legislature finds that, in order to protect and
2 promote the health, safety, morals, good order and general
3 welfare of the inhabitants of the state of Montana, and to
4 carry out the policy of section 2 of this act, it is
5 necessary that the board:

6 (a) ascertain and keep itself informed of the
7 identity, prior activities, and present location of all
8 gaming employees in the state of Montana, and

9 (b) maintain confidential records of this information.

10 (2) All persons desiring employment in any gaming
11 establishment, distribution firm or manufacturing firm
12 licensed hereunder, with the exception of bartenders,
13 cocktail waitresses or other persons engaged in preparing or
14 serving food or beverages, shall apply under oath to the
15 board, on forms to be furnished by the board, for a work
16 permit. These forms shall inquire into, but not be limited
17 to, such areas as the applicant's antecedents, habits,
18 character, associates, criminal record, business activities,
19 and financial affairs. Within thirty (30) days after an
20 application is filed with the board, the board shall issue
21 or deny a work permit to the applicant. The board's
22 decision is final and conclusive.

23 (3) All records acquired and compiled by the board
24 relating to any application made under this section are
25 confidential and no part thereof may be disclosed except in

1 the proper administration of this act or to an authorized
2 law enforcement agency. All lists of persons to whom work
3 permits have been issued or denied and all records of the
4 names or identity of persons engaged in the gaming industry
5 in this state are confidential and shall not be disclosed
6 except in the proper administration of this chapter or to an
7 authorized law enforcement agency.

8 (4) No person may be employed as a gaming employee
9 unless he is the holder of a valid work permit issued in
10 accordance with this section. No work permit may be issued
11 to a person who has been convicted of a felony unless he has
12 been pardoned.

13 (5) If any gaming employee is convicted of a violation
14 of this act, his work permit is considered revoked and the
15 board shall proceed accordingly.

16 (6) If any gaming employee's work permit is revoked
17 for any reason other than a conviction of a violation of
18 this act, he is entitled to judicial review of the board's
19 action in the manner prescribed by section 44 of this act.

20 (7) If any licensee employs a person required by this
21 chapter to have a work permit without that person's having a
22 permit, the board shall suspend the license of the licensee
23 for a period not exceeding sixty (60) days.

24 Section 42. Investigative hearings. (1) The board
25 shall investigate any apparent or suspected violations of

1 this act which come to its attention and, when disciplinary
2 or other action is to be taken against a licensee, it shall
3 conduct the necessary investigative hearings.

4 (2) If, after investigation, the board is satisfied
5 that a license should be limited, conditioned, suspended, or
6 revoked, it shall give the licensee an opportunity to be
7 heard in accordance with the provisions of section 43 of
8 this act by filing a complaint on its official docket.

9 (3) If, after hearing in conformity to section 43 of
10 this act, the board finds a violation of this act has been
11 committed by a licensee, the board may:

12 (a) limit, condition, suspend, or revoke the license
13 of any licensed gaming establishment or the individual
14 license of any licensee without affecting the license of the
15 establishment,

16 (b) order a licensed gaming establishment to keep an
17 individual licensee from the premises of the licensed gaming
18 establishment or not to pay the licensee any remuneration
19 for services or any profits, income or accruals on his
20 investment in that licensed gaming establishment, and

21 (c) fine a licensed gaming establishment in an amount
22 not to exceed one hundred thousand dollars (\$100,000) for
23 the first violation by an establishment, or fine an
24 individual licensee in an amount not to exceed fifty
25 thousand dollars (\$50,000) for the first violation by that

1 individual, for a reasonable cause. All fines shall be paid
2 to the state treasurer for deposit in the general fund in
3 the state treasury.

4 (4) For the second violation of provisions of this act
5 by any licensee, the board shall revoke the license of that
6 licensee.

7 (5) In the event the board limits, conditions,
8 suspends, or revokes a license or imposes a fine, it shall
9 issue a written order of that action.

10 (6) Any limitation, condition, revocation, suspension
11 or fine is effective until reversed or modified upon
12 judicial review except that the board may stay its order
13 pending a rehearing or judicial review upon terms and
14 conditions as it considers proper.

15 (7) Judicial review of an order or decision of the
16 board may be had in accordance with section 44 of this act.

17 Section 43. Hearing — procedure — effect — contempt
18 — review. (1) The complaint referred to in section 42 of
19 this act shall be a written statement of charges which shall
20 set forth in ordinary and concise language the acts or
21 omissions with which the respondent is charged. It shall
22 specify the statutes and rules which the respondent is
23 alleged to have violated.

24 (2) Upon the filing of the complaint, the board shall
25 serve a copy of the complaint upon the respondent either

1 personally, or by certified mail at his address on file with
2 the board.

3 (3) The board shall include with the copy of the
4 complaint served upon respondent three (3) copies of a form
5 entitled "Notice of Defense" which, when completed and
6 signed by or on behalf of the respondent and returned to the
7 board, will acknowledge service of the complaint and
8 constitute a "Notice of Defense" under subsection (5) of
9 this section.

10 (4) The notice of defense shall read substantially as
11 follows:

12 "NOTICE OF DEFENSE

13 "INSTRUCTIONS TO RESPONDENT: Two copies of this form should
14 be filed with the Montana gaming control board, Helena,
15 Montana, within 15 days after service upon you of the
16 enclosed complaint. The form must be signed by you or on
17 your behalf. You will note that blanks are provided for any
18 information you wish to supply.

19 "Do you request a hearing? Yes No

21 "Do you admit the facts stated Yes No
22 in the complaint?

23 If you admit some of the facts stated in the complaint
24 but deny others, please specify.

25 (space for answer)

1 "Are there any defenses or explana-
2 tions which you believe the board
3 should consider? Yes No

4 If so, please specify:
5 (space for answer)

6 "Do you wish to state any legal
7 objections to the complaint? Yes No

8 If so, please specify:
9 (space for answer)

10 "NOTE: If you fail to file two copies of this form as
11 specified, the board may proceed upon the complaint
12 without a hearing."

13 (5) Within fifteen (15) days after service of the
14 complaint, the respondent may file with the board a notice
15 of defense in which he may:

- 16 (a) request a hearing;
- 17 (b) admit the accusation in whole or in part;
- 18 (c) present new matter or explanations by way of
19 defense; and
- 20 (d) state any legal objections to the complaint.

21 Within the time specified respondent may file one or
22 more notices of defense upon any or all of the above
23 grounds, but all of these notices shall be filed within the
24 period specified above unless the board authorizes the
25 filing of a later notice.

26 (6) The respondent is entitled to a hearing on the
27 merits if he files a notice of defense within the time

1 allowed by subsection (5), and this notice is a specific
 2 denial of all parts of the complaint not expressly admitted.
 3 Failure to file a notice of defense within the time allowed
 4 by subsection (5) constitutes a waiver of respondent's right
 5 to a hearing and to judicial review of any decision or order
 6 of the board, but the board may order a hearing. All
 7 affirmative defenses shall be specifically stated and unless
 8 objection is taken as provided in paragraph (d) of
 9 subsection (5), all objections to the form of the complaint
 10 are waived.

11 (7) The board shall determine the time and place of
 12 the hearing as soon as is reasonably practical after
 13 receiving the respondent's notice of defense. The board
 14 shall deliver or send by certified mail a notice of hearing
 15 to all parties at least ten (10) days prior to the hearing.
 16 Unless respondent consents, the hearing shall not be prior
 17 to the expiration of the time within which the respondent is
 18 entitled to file a notice of defense.

19 (8) The notice of hearing shall be substantially in
 20 the following form, but may include other information:
 21 "YOU ARE HEREBY NOTIFIED that a hearing will be held before
 22 the Montana gaming control board at (here insert place of
 23 hearing) on the ___ day of _____, 19___, at the hour
 24 of _____, upon the charges made in the complaint served
 25 upon you. You may be present at the hearing and may be, but

1 need not be, represented by counsel. You may present any
 2 relevant evidence, and you will be given full opportunity to
 3 cross-examine all witnesses testifying against you. You are
 4 entitled to the issuance of subpoenas to compel the
 5 attendance of witnesses and the production of books,
 6 documents, or other things by applying to the Montana gaming
 7 control board."

8 (9) Notwithstanding any other provisions of this
 9 section, the board may issue an emergency order for
 10 suspension, limitation or conditioning of a license or
 11 requiring a licensed gaming establishment to keep an
 12 individual licensee from the premises of a licensed gaming
 13 establishment or not to pay the licensee remuneration for
 14 services or profits, income or accruals on his investment in
 15 the licensed gaming establishment in the following manner:

16 (a) An emergency order shall be issued only when the
 17 board believes that:

18 (i) there has been a violation of sections 46, 48, or
 19 49 of this act;

20 (ii) the action is necessary to prevent a violation of
 21 those sections of this act; or

22 (iii) the action is necessary for the immediate
 23 preservation of the public peace, health, safety, morals,
 24 good order or general welfare.

25 (b) The emergency order shall set forth the grounds

1 upon which it is issued, including a statement of facts
2 constituting the alleged emergency necessitating action.

3 (c) An emergency order may be issued only with the
4 approval of and upon the signature be not less than three
5 (3) members of the board.

6 (d) The emergency order shall be effective immediately
7 upon issuance and service upon the licensee or resident
8 agent of the licensee. The emergency order may suspend,
9 limit, condition or take other action in relation to the
10 license of one or more individuals in an operation without
11 affecting other individual licensees or the licensed gaming
12 establishment. The emergency order shall remain effective
13 until further order of the board or final disposition of the
14 case.

15 (e) Within five (5) days after issuance of an
16 emergency order, the board shall cause a complaint to be
17 filed and served upon the licensee in accordance with the
18 provisions of subsection (1) to (4) inclusive, of this
19 section.

20 (f) Thereafter, the licensee may have a hearing before
21 the board in accordance with this section, and judicial
22 review of the decision and order of the board thereon in
23 accordance with section 44 of this act.

24 (10) Prior to a hearing before the board, and during a
25 hearing upon reasonable cause shown, the board shall issue

1 subpoenas and subpoenas duces tecum at the request of a
2 party. All witnesses appearing under subpoena, other than
3 parties, officers or employees of the state of Montana or
4 any political subdivision thereof, shall receive fees and
5 mileage in the same amounts and under the same circumstances
6 as provided by law for witnesses in civil actions in
7 district courts. Witnesses entitled to fees or mileage who
8 attend hearings at points so far removed from their
9 residences as to prohibit return thereto from day to day are
10 entitled, in addition to witness fees and in lieu of
11 mileage, to the per diem compensation for subsistence and
12 transportation authorized by law for each day of actual
13 attendance and for each day necessarily occupied in
14 traveling to and from the hearings. Fees, subsistence and
15 transportation expenses shall be paid by the party at whose
16 request the witness is subpoenaed. The board may award as
17 costs the amount of all these expenses to the prevailing
18 party.

19 (11) The testimony of a material witness residing
20 within or without the state of Montana may be taken by
21 deposition in the manner provided by the Montana rules of
22 civil procedure.

23 (12) Affidavits may be received in evidence at a
24 hearing of the board in accordance with the following:

25 (a) The party wishing to use an affidavit shall serve,

1 not less than ten (10) days prior to the day set for
2 hearing, upon the opposing party or counsel, either
3 personally or by certified mail, a copy of the affidavit
4 which he proposes to introduce in evidence together with a
5 notice as provided in (c) of this subsection.

6 (b) Unless the opposing party, within seven (7) days
7 after service, mails or delivers to the proponent a request
8 to cross-examine affiant, his right to cross-examine affiant
9 is waived and the affidavit, if introduced in evidence, has
10 the same effect as if the affiant had testified orally. If
11 an opportunity to cross-examine an affiant is not afforded
12 after request is made in accordance with this section, the
13 affidavit may be introduced in evidence, but has the same
14 effect as hearsay evidence.

15 (c) The notice referred to in subsection (a) shall be
16 substantially in the following form:

17 "The accompanying affidavit of (here insert name of
18 affiant) will be introduced as evidence at the hearing set
19 for the ____ day of _____, 19___. (Here insert name
20 of affiant) will not be called to testify orally and you
21 will not be entitled to question him unless you notify the
22 undersigned that you wish to cross-examine him. To be
23 effective your request must be mailed or delivered to the
24 undersigned on or before seven (7) days from the date this
25 notice and the enclosed affidavit are served upon you.

(Party or Counsel)"

1
2
3 (13) The following procedures apply at all hearings of
4 the board other than investigative hearings:

5 (a) At least three (3) members of the board shall be
6 present at every hearing, and they shall exercise all powers
7 relating to the conduct of the hearing and shall enforce all
8 decisions with respect thereto.

9 (b) The proceedings at the hearing shall be reported
10 either stenographically or by a phonographic reporter.

11 (c) Oral evidence shall be taken only upon oath or
12 affirmation administered by the board.

13 (d) Every party to a hearing shall have the right:

14 (i) to call and examine witnesses;

15 (ii) to introduce exhibits relevant to the issues of
16 the case, including the transcript of testimony at any
17 investigative hearing conducted by or on behalf of the
18 board;

19 (iii) to cross-examine opposing witnesses on any
20 matters relevant to the issues of the case, even though the
21 matter was not covered in a direct examination;

22 (iv) to impeach any witness regardless of which party
23 first called him to testify; and

24 (v) to offer rebuttal evidence.

25 (e) If the respondent does not testify in his own

1 behalf, he may be called and examined as if under
2 cross-examination.

3 (f) The hearing need not be conducted according to
4 technical rules relating to evidence and witnesses. Any
5 relevant evidence may be admitted and is sufficient in
6 itself to support a finding if it is that sort of evidence
7 on which responsible persons are accustomed to rely in the
8 conduct of serious affairs, regardless of the existence of a
9 common law or statutory rule which might make improper the
10 admission of this evidence over objection in a civil action.

11 (g) The parties or their counsel may by written
12 stipulation agree that certain specified evidence may be
13 admitted even though the evidence might otherwise be subject
14 to objection.

15 (14) The board may take official notice of any
16 generally accepted information or technical or scientific
17 matter within the field of gaming, and of any other fact
18 which may be judicially noticed by the courts of this state.
19 The parties shall be informed of any information, matters or
20 facts so noticed, and shall be given a reasonable
21 opportunity on request to refute that information, matters
22 or facts by evidence or by written or oral presentation of
23 authorities, the manner of refutation to be determined by
24 the board.

25 (15) The board may permit the filing of amended or

1 supplemental pleadings and shall notify all parties thereof,
2 and provide a reasonable opportunity for objections thereto.

3 (16) If a person in proceedings before the board
4 disobeys or resists a lawful order or refuses to respond to
5 a subpoena, or refuses to take the oath or affirmation as a
6 witness or thereafter refuses to be examined, or is guilty
7 of misconduct during the hearing or so near the place of
8 hearing as to obstruct the proceedings, the board may
9 certify the facts to the district court in and for the
10 county where the proceedings are held. The court shall
11 thereupon issue an order directing the person to appear
12 before the court and show cause why he should not be
13 punished as for contempt. The court order and a copy of the
14 statement of the board shall be served on the person cited
15 to appear. Thereafter the court has jurisdiction of the
16 matter; and the same proceedings shall be had, the same
17 penalties may be imposed and the person charged may purge
18 himself of the contempt in the same way as in the case of a
19 person who has committed a contempt in the trial of a civil
20 action before a district court.

21 (17) Failure of a respondent to file a notice of
22 defense or to request or appear at the hearing is an
23 admission of all matters and facts contained in the
24 complaint filed with respect to that respondent. In these
25 cases the board may take action based upon admissions or

1 upon other evidence, including affidavits, and without
2 further notices to respondent. In these cases the board
3 shall prepare and file a record containing the evidence upon
4 which its action was based.

5 (18) After the hearing of a contested matter, the board
6 shall render a written decision on the merits which shall
7 contain findings of fact, a determination of the issues
8 presented and the penalty to be imposed, if any; and shall
9 make and enter its written order in conformity to the
10 decision. No member of the board who did not hear the
11 evidence may vote on the decision. The affirmative votes of
12 a majority of the whole board are required to impose any
13 penalty. Copies of the decision and order shall be served
14 on the parties personally or sent to them by certified mail.
15 The decision shall become and remain effective upon service,
16 unless the board shall otherwise order.

17 (19) The board may, upon motion therefor made ten (10)
18 days after service of a decision and order, order a
19 rehearing before the board upon terms and conditions it
20 considers just and proper if a petition for judicial review
21 of the decision and order has not been filed. A motion may
22 not be granted except upon a showing that there is
23 additional evidence which is material and necessary and
24 reasonably calculated to change the decision of the board
25 and that sufficient reason existed for failure to present

1 the evidence at the hearing of the board. The motion shall
2 be supported by an affidavit of the moving party or his
3 counsel showing with particularity and materiality the
4 necessity of the additional evidence and the reason why it
5 was not introduced at the hearing. Upon rehearing, rebuttal
6 evidence to the additional evidence shall be permitted.
7 After rehearing, the board may modify its decision and order
8 as the additional evidence may warrant.

9 Section 44. Judicial review. (1) Any person
10 aggrieved by a final decision or order of the board made
11 after hearing or rehearing by the board under section 43 of
12 this act and whether or not a petition for rehearing was
13 filed, may obtain judicial review in the district court of
14 the county in which the petitioner resides or has his or its
15 principal place of business.

16 (2) Judicial review is instituted by filing a petition
17 within twenty (20) days after the effective date of the
18 final decision or order. A petition may not be filed while
19 a petition for rehearing or a rehearing is pending before
20 the board. The petition shall set forth the order or
21 decision appealed from and the grounds or reasons why
22 petitioner contends a reversal or modification should be
23 ordered.

24 (3) Copies of the petition shall be served upon the
25 board and all other parties of record, or their counsel of

1 record, either personally or by certified mail.

2 (4) The court, upon a proper showing, may permit other
3 interested persons to intervene as parties to the appeal or
4 as friends of the court.

5 (5) The filing of the petition shall not stay
6 enforcement of the decision or order of the board, but the
7 board itself may grant a stay upon terms and conditions it
8 considers proper.

9 (6) Upon written request of petitioner and upon
10 payment of reasonable costs and fees the board prescribes,
11 the complete record on review, or parts designated by the
12 petitioner, shall be prepared by the board.

13 (7) The complete record on review shall include copies
14 of:

15 (a) all pleadings in the case;

16 (b) all notices and interim orders issued by the board
17 in connection with the case;

18 (c) all stipulations;

19 (d) the decision and order appealed from;

20 (e) a transcript of all testimony, evidence and
21 proceedings at the hearing;

22 (f) the exhibits admitted or rejected; and

23 (g) any other papers in the case.

24 The original of any document may be used in lieu of a
25 copy thereof. The record on review may be shortened by

1 stipulation of all parties to the review proceedings.

2 (8) The record on review shall be filed with the
3 reviewing court within thirty (30) days after service of the
4 petition for review, but the court may allow the board
5 additional time to prepare and transmit the record on
6 review.

7 (9) The reviewing court, upon motion therefor, may
8 order that additional evidence in the case be taken by the
9 board upon terms and conditions the court considers just and
10 proper. This motion may not be granted except upon showing
11 that the additional evidence is material and necessary and
12 that sufficient reason existed for failure to present the
13 evidence at the hearing of the board. The motion shall be
14 supported by an affidavit of the moving party or his counsel
15 showing with particularity the materiality and necessity of
16 the additional evidence and the reason why it was not
17 introduced in the administrative hearing. Rebuttal evidence
18 to the additional evidence shall be permitted. In cases in
19 which additional evidence is presented to the board, the
20 board may modify its decisions and orders as the additional
21 evidence may warrant and shall file with the reviewing court
22 a transcript of the additional evidence together with any
23 modifications of the decision and order, all of which shall
24 become a part of the record on review.

25 (10) The review shall be conducted by the court sitting

1 without a jury, and is not a trial de novo but is confined
2 to the record on review.

3 (11) The reviewing court may affirm the decision and
4 order of the board, or it may remand the case for further
5 proceedings or reverse the decision if the substantial
6 rights of the petitioner have been prejudiced because the
7 decision is:

8 (a) in violation of constitutional provisions; or

9 (b) in excess of the statutory authority or
10 jurisdiction of the board; or

11 (c) made upon unlawful procedure; or

12 (d) unsupported by any evidence; or

13 (e) arbitrary or capricious or otherwise not in
14 accordance with law.

15 (12) Any party aggrieved by the final decision in the
16 district court after a review of the board decision and
17 order may appeal to the supreme court in the manner and
18 within the time provided by law for appeals in civil cases.
19 The supreme court shall follow the same procedure thereafter
20 as in appeals in civil actions, and may affirm, reverse, or
21 modify the decision as the record and law warrant.

22 (13) Judicial review by the district and supreme courts
23 afforded in this act is the exclusive method of review of
24 board actions, decisions and orders, and precludes the use
25 of any of the extraordinary common law writs or other

1 equitable proceedings.

2 Section 45. Violation — penalty. (1) It shall be
3 unlawful for any person, firm, association or corporation,
4 either as owner, lessee or employee, whether for hire or
5 not, in the state of Montana, to deal, operate, carry on,
6 conduct, maintain or expose for play: any pull tabs, jar
7 tickets, or any game of faro, monte, roulette, keno,
8 fan-tan, baccarat, twenty-one, blackjack, seven-and-a-half,
9 big injun, klondike, craps, or any game not authorized
10 herein, or any mechanical or electronic coin-operated
11 machine containing three (3) or more rotating wheels, which
12 is commonly called a slot machine.

13 (2) Any person, firm, association or corporation
14 violating any of the provisions of this section is guilty of
15 a felony, punishable upon conviction by imprisonment in the
16 state prison for not less than five (5) years and not more
17 than ten (10) years, and no court may suspend or defer
18 sentence or place a person convicted hereunder on probation.

19 Section 46. Violation — penalty. Every person who
20 knowingly permits any of the games or slot machines
21 mentioned in section 45 of this act to be played, conducted,
22 dealt or maintained in any house, building or part thereof
23 owned or rented by such person, or who knowingly permits any
24 of the games or coin-operated machines permitted to be
25 licensed by this act to be played, conducted, dealt or

1 maintained without a license in any house, building or part
2 thereof owned by such person, is guilty of a felony,
3 punishable upon conviction by imprisonment in the state
4 prison for not less than five (5) years and not more than
5 ten (10) years, and no court may suspend or defer sentence
6 or place a person convicted hereunder on probation.

7 Section 47. Prohibition — cheating — penalty. (1)
8 It shall be unlawful for any person playing any licensed
9 gambling game:

10 (a) to use bogus or counterfeit chips, or to
11 substitute and use in any such game any cards that have been
12 marked or tampered with; or

13 (b) to employ or have on his person any cheating
14 device to facilitate cheating in any game.

15 (2) It is unlawful for any person, in playing or using
16 any coin-operated machine, lawful vending machine, coin box,
17 telephone or other receptacle designed to receive or be
18 operated by lawful coin of the United States of America in
19 furtherance of or in connection with the sale, use or
20 enjoyment of property or service:

21 (a) to use other than lawful coin, legal tender of the
22 United States of America, not of the same denomination as
23 the coin intended to be used in such device, except that in
24 the playing of any coin-operated machine, it is lawful for a
25 person to use tokens or similar objects therein which are

1 approved by the state gaming control board; or

2 (b) to use or have on his person a cheating or
3 thieving device to facilitate removing from a coin-operated
4 machine, lawful vending machine, coin box, telephone or
5 other receptacle a part of the contents thereof.

6 (3) A violation of the provisions of this section is a
7 misdemeanor, punishable upon conviction by a fine not
8 exceeding one thousand dollars (\$1,000) or by imprisonment
9 in the county jail for a maximum period of ninety (90) days,
10 or both.

11 Section 48. Prohibition — altered devices — penalty.

12 (1) It is unlawful:

13 (a) to conduct, carry on, operate, deal or allow to be
14 conducted, carried on, operated or dealt any cheating or
15 thieving game or device; or

16 (b) to deal, conduct, carry on, operate or expose for
17 play any game or games played with cards or any mechanical
18 device, or any combination of games or devices, which have
19 in any manner been marked or tampered with, or placed in a
20 condition, or operated in a manner, the result of which:

21 (i) tends to deceive the public; or

22 (ii) tends to alter the normal random selection of
23 criteria which determine the result of the game.

24 (2) The use of marked cards, plugged or tampered-with
25 machines or devices, counterfeit punchboards on which the

1 tax imposed by this act has not been paid, or punchboards
2 sold with an overlay or accompanying chart revealing to the
3 gaming licensee the locations of winning symbols or numbers,
4 is the practice of deception upon the public and is
5 expressly declared unlawful.

6 (3) A violation of the provisions of this section is a
7 felony, punishable upon conviction by imprisonment in the
8 state prison for not less than five (5) years and not more
9 than ten (10) years, and no court may suspend or defer
10 sentence or place a person convicted hereunder on probation.

11 Section 49. Prohibition — unlawful sale or
12 manufacture — penalty. (1) It is unlawful to manufacture
13 or sell:

14 (a) any cheating or thieving game or device;

15 (b) any game or games played with cards or any
16 mechanical device, or any combination of these games or
17 devices, which may have in any manner been marked or
18 tampered with to deceive the public;

19 (c) any counterfeit punchboard on which the tax
20 imposed by this act has not been paid as provided herein;

21 (d) any punchboard accompanied by an overlay or chart
22 or other method of informing a gaming licensee of the
23 locations of winning symbols or numbers.

24 (2) Any violation of the provisions of this section is
25 a felony, punishable upon conviction by imprisonment in the

1 state prison for not less than five (5) years and not more
2 than ten (10) years, and no court may suspend or defer
3 sentence or place a person convicted hereunder on probation.

4 Section 50. Public notice — display. Each gaming
5 licensee licensed under sections 30 and 31 of this act shall
6 prominently display on all exterior entrance doors to his
7 premises where gaming of any kind is conducted or operated
8 the following notice to the public:

9 "PUBLIC NOTICE

10 THIS ESTABLISHMENT IS LICENSED TO CONDUCT GAMBLING.

11 WARNING: MINORS ARE PROHIBITED FROM GAMBLING"

12 Each licensee shall purchase notices from the board at
13 its actual cost of preparing and furnishing these, and it is
14 a specific condition precedent to renewal of license that
15 notices are legibly maintained and displayed at all times.

16 The board shall design, prepare and make these notices
17 available to gaming licensees in decal form for exterior
18 entrance doors and in long-wearing enamel metal form for
19 interior display. These notices shall be of size, print and
20 color to be easily read and to attract the attention of the
21 public.

22 Section 51. Election — to permit gambling in a
23 county. Upon application by petition, signed by one-third
24 (1/3) of the voters who are qualified to vote for members of
25 the legislature in any county in the state, the board of

1 county commissioners shall order an election to be held at
 2 the places of holding elections for county officers, to take
 3 place within forty (40) days after the reception of the
 4 petition, to determine whether or not gambling as herein
 5 provided for shall be permitted within the limits of the
 6 county. No election under this section may take place in
 7 any month in which the general elections are held. The
 8 board of county commissioners shall determine the
 9 sufficiency of the petitions presented from an examination
 10 of the roll of qualified electors within the county.

11 Section 52. Election — notice. The notice of
 12 election shall be published once a week for four (4) weeks
 13 in those newspapers of the county where the election is to
 14 be held as the board of county commissioners considers
 15 necessary.

16 Section 53. Election — county clerk — duties. The
 17 county clerk shall furnish the ballots to be used at an
 18 election, as provided in the general election laws, these
 19 ballots shall contain the following words: "Gambling, yes";
 20 "Gambling, no." And the elector in order to vote must mark
 21 an "X" opposite one (1) of the answers.

22 Section 54. Election — polling places. The polling
 23 places must be established, the judges and other officers to
 24 conduct the election must be designated, and the election
 25 must be held, canvassed and returned in all respects in

1 conformity to the general elections laws of the state of
 2 Montana.

3 Section 55. Election results — effect. If a majority
 4 of the votes cast are against gambling, the board of county
 5 commissioners must publish the result once a week for four
 6 (4) weeks in the newspapers in which the notices of election
 7 were published, and from the date of the election no further
 8 gaming licenses in the county may be issued by the state
 9 gaming control board and after the publication of notice
 10 proclaiming the result of the election is against gambling,
 11 all licenses then existing shall be canceled by the state
 12 gaming control board, and thereafter it shall be unlawful to
 13 gamble in that county.

14 Section 56. Election — limits. No gambling election
 15 may be held in the same county more than once in any two (2)
 16 years.

17 Section 57. Election — challenge. A gambling
 18 election held under the provisions of this act may be
 19 contested in the same manner as other elections under the
 20 laws of this state.

21 Section 58. Fees — deposit. Except as provided in
 22 sections 34 and 59 of this act, all fees, charges, taxes,
 23 penalties, fines and revenues collected by or under
 24 authority of the gaming control board shall be paid over to
 25 the state treasurer on or before the tenth day of each and

1 every month and the state treasurer shall deposit these
2 funds to the credit of the state general fund.

3 Section 59. Local share of funds - use. Twenty-five
4 percent (25%) of the revenues collected by or under
5 authority of the gaming control board for basic gaming
6 licenses and for annual games licenses, under section 31 of
7 this act, shall be deposited by the state treasurer to the
8 credit of the cities and counties gaming license account in
9 the earmarked revenue fund. The state treasurer shall
10 annually, in the month of August, distribute this money to
11 the incorporated cities and towns and to the counties in the
12 direct proportion that the population of each city, town,
13 and county bears to the total population of all incorporated
14 cities, towns, and counties as shown in the latest decennial
15 federal census. If any county elects to make gambling
16 within its boundaries illegal, as provided in sections 51
17 through 57 of this act, it and all of the incorporated
18 cities and towns within its boundaries shall forthwith cease
19 to receive any funds under this section. All funds received
20 by counties, cities, and towns under this section shall be
21 expended for law enforcement purposes.

22 Section 60. Licensing is exclusive function of state.
23 The licensing and taxing of gambling as permitted by this
24 act are declared the exclusive function of the state;
25 provided, however, that incorporated cities and towns may

1 require the holders of gaming licenses to secure the
2 business licenses required of mercantile establishments
3 within their jurisdictions.

4 Section 61. Severability. If a part of this act is
5 invalid, all valid parts that are severable from the invalid
6 part remain in effect. If a part of this act is invalid in
7 one or more of its applications, the part remains in effect
8 in all valid applications that are severable from the
9 invalid applications.

10 Section 62. Repealer. All acts and parts of acts in
11 conflict with this act are repealed.

-End-

Select Comm. on Gambling,
reported without recommendation
as amended.

1 HOUSE BILL NO. 682
2 INTRODUCED BY GUNDERSON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT, LICENSE,
5 REGULATE, AND CONTROL GAMBLING; ESTABLISHING A GAMING
6 CONTROL BOARD AND SPECIFYING ITS POWERS AND DUTIES; AND
7 PROVIDING PENALTIES FOR VIOLATIONS OF THIS ACT."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Short title. This act may be cited as the
11 "Montana Limited Gaming Control Act".

12 Section 2. Policy. It is hereby declared to be the
13 policy of the state of Montana that all authorized
14 establishments where gambling games are conducted or
15 operated or where authorized gambling devices are operated
16 and all manufacturers, sellers, and distributors of certain
17 gambling devices and equipment in the state of Montana shall
18 be licensed and controlled to protect the public health,
19 safety, morals, good order and general welfare of the
20 inhabitants of the state of Montana, and to preserve the
21 competitive economy and the policies of free competition of
22 the state of Montana.

23 A license issued under this chapter is a revocable
24 privilege and no holder may acquire vested rights
25 thereunder.

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

2 (1) "Applicant" means any person who has applied for
3 or is about to apply for a state gaming license or a
4 manufacturer's or distributor's license.

5 (2) "Application" means a request for the issuance of
6 a state gaming license or a manufacturer's or distributor's
7 license under the provisions of this act.

8 (3) "Board" means the state gaming control board as
9 established by this act.

10 (4) "Chairman" means the chairman and executive
11 director of the state gaming control board.

12 (5) "City" means any incorporated or unincorporated
13 city or town.

14 (6) "Distributor" means any person engaged in the sale
15 or leasing and distribution of any device, equipment,
16 material or machine used in gambling.

17 (7) "Establishment" means any premises where gaming
18 takes place.

19 (8) "Game" or "gambling game" means any banking or
20 percentage game played with cards, dice, or any mechanical
21 device or machine for money, property, checks, credit, or
22 any representative of value, including bingo, punchboards,
23 low ball, stud poker, draw poker, panguingue, whist, runny,
24 pinochle, solo, hearts, pitch, cribbage, dominoes, bridge,
25 or coin-operated machines, but shall not include and this

1 act is not intended to authorize those mechanical or
 2 electronic coin-operated machines which are commonly known
 3 as slot machines and which contain three (3) or more
 4 rotating wheels. This term does not include and this act is
 5 not intended to authorize pull tabs, jar tickets, craps,
 6 keno, roulette, or the following card games: black jack,
 7 twenty-one, faro, monte, baccarat, fan tan,
 8 seven-and-a-half, big injun, or klondike. Further, this
 9 term does not include or relate to games played in private
 10 homes or residences for prizes or games operated by
 11 religious, charitable or educational organizations which are
 12 approved by the board under provisions of section 33 of this
 13 act.

14 (9) "Gaming" or "gambling" means to deal, operate,
 15 carry on, conduct, maintain or expose for play any game.

16 (10) "Gaming device" means any mechanical or electronic
 17 contrivance or machine used in connection with gaming or in
 18 connection with any game.

19 (11) "Gaming employee" means any person other than a
 20 licensee who is connected directly with the operation of an
 21 establishment in any way, but does not include bartenders,
 22 cocktail waitresses or other persons engaged in preparing or
 23 serving food or beverages.

24 (12) "Gaming license" means any license issued by the
 25 state of Montana under this act.

1 (13) "Hearing examiner" means a member of the state
 2 gaming control board or other person authorized by the state
 3 gaming control board to conduct investigative hearings.

4 (14) "License" means a gaming license or a
 5 manufacturer's or distributor's license.

6 (15) "License fees" means any moneys required by law to
 7 be paid to obtain or renew a gaming license or
 8 manufacturer's or distributor's license.

9 (16) "Licensed gaming establishment" means any premises
 10 licensed under provisions of this act where gaming takes
 11 place.

12 (17) "Licensee" means any person to whom a valid gaming
 13 license or manufacturer's or distributor's license has been
 14 issued.

15 (18) "Manufacturer" means any person who makes,
 16 fabricates, or produces or reconditions and rebuilds any
 17 device, equipment, material or machine used in gambling.

18 (19) "Member" or "board member" means a member of the
 19 state gaming control board.

20 (20) "Operation" means the conduct of gaming.

21 (21) "Party" means the state gaming control board and
 22 any licensee or other person appearing of record in any
 23 proceeding before the board or in any proceeding for
 24 judicial review of any action, decision or order of the
 25 board.

1 (22) "Person" includes any association, corporation,
 2 firm, partnership, trust or other form of business
 3 association as well as a natural person.

4 (23) "Punchboard" means a device consisting of a board
 5 having numerous holes each containing unexposed slips of
 6 paper bearing numbers or symbols, some of which represent a
 7 prize, which device is upon payment of any consideration,
 8 available to play, by punching therefrom one or more slips,
 9 the play of which by reason of the element of chance may
 10 entitle the person playing to receive cash, premiums,
 11 merchandise, tokens, or anything of value.

12 (24) "Respondent" means any licensee or other person
 13 against whom the board has filed a complaint.

14 (25) "Coin-operated machine" means any mechanical,
 15 electrical, electronic, or other device, contrivance or
 16 machine with player appeal which, upon insertion of a coin,
 17 token, or similar object, or upon payment of any
 18 consideration, is available to play or operate, the play or
 19 operation of which, whether by reason of the skill of the
 20 operator or application of the element of chance, or both,
 21 may deliver or entitle the person playing or operating the
 22 machine to receive cash, premiums, merchandise, tokens or
 23 anything of value, other than free plays, whether the payoff
 24 is made automatically from the machine or in any other
 25 manner, and does not include what is commonly known as slot

1 machines which contain three (3) or more rotating wheels,
 2 whether operated mechanically or electronically.

3 (26) "Warehouse" means a building owned or operated by
 4 a licensed distributor for the receiving, storage, repair,
 5 maintenance and distribution of devices, equipment,
 6 materials, or machines used in gambling from such location,
 7 as permitted by this act.

8 (27) "Work permit" means any card, certificate or
 9 permit issued by the board, authorizing the employment of
 10 the holder as a gaming employee.

11 Section 4. board — allocation. There is created a
 12 state gaming control board, which board is allocated to the
 13 department of law enforcement and public safety for
 14 administrative purposes only. This board consists of the
 15 attorney general, ~~chairman~~, the secretary of state, and
 16 three (3) persons appointed by the governor, with the advice
 17 and consent of the senate. THE CHAIRMANSHIP SHALL ROTATE
 18 ANNUALLY BETWEEN THE ATTORNEY GENERAL, THE SECRETARY OF
 19 STATE, AND ONE OF THE MEMBERS APPOINTED BY THE GOVERNOR.
 20 THE BOARD SHALL DECIDE THE ORDER OF ROTATION AT ITS FIRST
 21 MEETING. Each of the members appointed by the governor
 22 shall:

23 (1) have been a resident of Montana for a period of at
 24 least five (5) years prior to the effective date of his
 25 appointment;

1 (2) be a citizen of the United States;

2 (3) hold no office (except notary public or in the
3 militia) under the United States or this state at the time
4 of his appointment or during his continuance in office;

5 (4) serve at the pleasure of the governor;

6 (5) before entering upon the duties of his office
7 subscribe to, and file with the secretary of state, the
8 constitutional oath of office; and

9 (6) swear that he is not pecuniarily interested in any
10 business or organization holding a gaming license or doing
11 business with a person or organization so interested. No
12 more than three (3) members of the board, including the
13 attorney general and secretary of state, are members of the
14 same political party.

15 Section 5. Full time membership. Each member of the
16 board appointed by the governor shall devote his entire time
17 and attention to the business of the board, shall not pursue
18 any other business or occupation or hold any other office of
19 profit, and shall receive an annual salary in the amount
20 specified by the legislature.

21 Section 6. Reimbursement. All members of the board,
22 including the attorney general and secretary of state, in
23 addition to their salaries, are entitled to reimbursement
24 from the funds of the board for actual necessary expenses
25 incurred in the performance of their official duties.

1 Section 7. Attorney general — duties. The attorney
2 general is the legal adviser for and the chief law
3 enforcement officer of the board, as chief law enforcement
4 officer the attorney general may in his discretion direct
5 the appropriate county attorney to prosecute violations of
6 this act or prosecute them directly in any district court
7 without referral to the county attorney. He shall designate
8 one of his assistants or deputies to serve full time as
9 legal adviser for the board, and that assistant or deputy
10 shall devote his entire time and attention to the business
11 of the board and shall not engage in the private practice of
12 law. The salary and travel and per diem expenses of this
13 assistant or deputy attorney general shall be paid from
14 funds appropriated to the board for that purpose by the
15 legislature.

16 Section 8. Office — meetings. The office of the board
17 shall be at the seat of government in Helena. Regular and
18 special meetings of the board may be held, at the discretion
19 of the board, at times and places as it deems convenient or
20 necessary, but at least one (1) regular meeting shall be
21 held each month in Helena. Public notice of the time and
22 place of special meetings shall be given at least seven (7)
23 days prior to the meeting. All meetings of the board are
24 open to the public. A majority of the members present at
25 any meeting determines the action of the board.

1 Investigative hearings may be conducted by one (1) or more
 2 members, with the concurrence of the attorney general and at
 3 least two (2) other members of the board, without notice at
 4 times and places, within or without the state of Montana, as
 5 the member or members consider convenient or necessary.
 6 These investigative hearings may be conducted in private at
 7 the discretion of the member or members conducting them.

8 Section 9. Records. (1) The board (a) shall make and
 9 keep a record of all proceedings of regular and special
 10 meetings of the board, which records are open to public
 11 inspection; (b) shall keep and maintain a file of all
 12 applications for licenses under this act, together with a
 13 record of all actions taken with respect to those
 14 applications, which file and record are open to public
 15 inspection; and (c) may maintain other files and records as
 16 it considers desirable.

17 (2) All information and data furnished to the board
 18 relative to the earnings or revenue of the applicant or
 19 licensee is confidential and shall not be revealed in whole
 20 or in part except as follows:

21 (a) in the course of the necessary administration of
 22 this act;

23 (b) upon the lawful order of a court of competent
 24 jurisdiction;

25 (c) to a duly authorized agent of the federal bureau

1 of investigation, the United States treasury department or
 2 the commissioner of the internal revenue service of the
 3 United States under rules and regulations adopted by the
 4 board.

5 (3) All information and data pertaining to an
 6 applicant's criminal record, antecedents and background,
 7 other than financial, furnished to or obtained by the board
 8 from any source, may be considered confidential and may be
 9 withheld in whole or in part, except that any information
 10 shall be released upon lawful order of competent
 11 jurisdiction.

12 (4) Notice of the content of any information or data
 13 furnished or released under subsections (2) and (3) of this
 14 section shall be given to any applicant or licensee in a
 15 manner prescribed by rules adopted by the board.

16 (5) All files, records, reports and other information
 17 pertaining to gaming matters in the possession of the
 18 department of revenue or state board of equalization shall
 19 be made available to the state gaming control board as
 20 necessary to the administration of this act.

21 Section 10. Board -- duties. (1) The provisions of
 22 this act with respect to state gaming licenses and
 23 manufacturer's and distributor's licenses shall be
 24 administered by the state gaming control board which shall
 25 administer them for the protection of the public and in the

1 public interest in accordance with policy of this state.

2 (2) The board shall investigate the qualifications of

3 each applicant for licenses under this act before any

4 license is issued and shall continue to observe the conduct

5 of all licensees to the end that licenses shall not be

6 issued to nor held by unqualified or disqualified persons or

7 unsuitable persons or persons whose operations are conducted

8 in an unsuitable manner or for unsuitable or prohibited

9 places or locations. The board has full and absolute power

10 and authority to deny an application for license, or to

11 limit, condition, restrict, revoke or suspend a license, for

12 any cause reasonable to the board.

13 (3) The board and its agents, inspectors and employees

14 have the authority:

15 (a) to inspect and examine all premises wherein gaming

16 is conducted or gambling devices or equipment are

17 manufactured, reconditioned, rebuilt, sold, distributed,

18 repaired or maintained;

19 (b) to inspect all equipment and supplies in, upon or

20 about those premises;

21 (c) summarily to seize and remove from those premises

22 and impound any equipment or supplies for the purpose of

23 examination and inspection;

24 (d) to demand access to and inspect, examine and audit

25 all papers, books and records of applicants and licensees

1 respecting the gross income produced by any gaming business,

2 and require verification of income, and all other matters

3 affecting the enforcement of the policy of or any of the

4 provisions of this act.

5 (4) For the purpose of the administration of this act,

6 the board and the executive, supervisory and investigative

7 personnel of the board have the powers of a peace officer of

8 the state of Montana. The provisions of this subsection do

9 not constitute these individuals as peace officers for any

10 other purpose.

11 (5) The board or any member thereof has full power and

12 authority to issue subpoenas and compel the attendance of

13 witnesses at any place within this state, to administer

14 oaths and to require testimony under oath. Any process or

15 notice may be served in the manner provided for service of

16 process and notices in civil actions. The board may pay

17 transportation and other expenses of witnesses as it

18 considers reasonable and proper. Any person making false

19 oath in any matter before the board is guilty of perjury.

20 Section 11. Board — adoption of rules. (1) The board

21 shall adopt, amend or repeal rules consistent with the

22 policy, objects and purposes of this chapter, as it

23 considers necessary or desirable in the public interest to

24 carry out the policy and provisions of this act.

25 (2) These rules shall include, without limiting the

1 general powers of the board, the following:

2 (a) prescribing the method and form of application
3 which an applicant for a gaming license or for a
4 manufacturer's or distributor's license shall follow and
5 complete prior to consideration of his application by the
6 board;

7 (b) prescribing the information to be furnished by an
8 applicant or licensee concerning that person's antecedents,
9 habits, character, associates, criminal record, business
10 activities and financial affairs;

11 (c) requiring fingerprinting of an applicant or
12 licensee or employee of a licensee or other methods of
13 identification;

14 (d) prescribing the manner and procedure of all
15 hearings conducted by the board or any hearing examiner of
16 the board, including special rules of evidence applicable
17 thereto and notices thereof;

18 (e) requiring an applicant to pay all of the fees and
19 costs of investigation of that applicant;

20 (f) prescribing the manner and method of collection
21 and payment of fees and issuance of licenses;

22 (g) defining and limiting the area, games and devices
23 permitted, and the method of operation of games and devices
24 for the purposes of this chapter;

25 (h) prescribing the manner in which a licensee's

1 financial records shall be kept and accounted for, including
2 the designation of the number of depositories which a
3 licensee may employ;

4 (i) prescribing under what conditions the nonpayment
5 of a gambling debt by a licensee shall be considered grounds
6 for revocation or suspension of his license;

7 (j) governing the manufacture, sale and distribution
8 of gambling devices and equipment;

9 (k) requiring an applicant or licensee to waive a
10 privilege with respect to any testimony at any hearing or
11 meeting of the board, except a privilege afforded by the
12 constitutions of the United States or this state;

13 (l) prescribing the qualifications of, and the
14 conditions under which attorneys, accountants and others
15 shall be permitted to practice before the board.

16 Section 12. Board — procedural rules — hearings. (1)
17 The board shall adopt, amend and repeal rules in accordance
18 with the following procedures:

19 (a) At least thirty (30) days prior to the adoption,
20 amendment or repeal of a rule, notice of the proposed action
21 shall be:

22 (i) published in a newspaper the board designates;

23 (ii) mailed to every person who has filed a request
24 therefor with the board; and

25 (iii) when the board considers advisable, mailed to a

1 person whom the board believes would be interested in the
 2 proposed action, and published in additional form and manner
 3 as the board may prescribe.

4 (b) The notice of proposed adoption, amendment or
 5 repeal shall include:

6 (i) a statement of the time, place and nature of the
 7 proceedings for adoption, amendment or repeal;

8 (ii) reference to the authority under which the action
 9 is proposed; and

10 (iii) either the express terms or an informative
 11 summary of the proposed action.

12 (c) On the date and at the time and place designated
 13 in the notice, the board shall afford any interested person
 14 or his duly authorized representative, or both, the
 15 opportunity to present statements, arguments, or contentions
 16 in writing, with or without opportunity to present the same
 17 orally. The board shall consider all relevant matter
 18 presented to it before adopting, amending or repealing a
 19 rule.

20 (d) Any interested person may file a petition with the
 21 board requesting the adoption, amendment or repeal of a
 22 rule. This petition shall state, clearly and concisely:

23 (i) the substance or nature of the regulation,
 24 amendment or repeal requested;

25 (ii) the reasons for the request; and

1 (iii) reference to the authority of the board to take
 2 the action requested. Upon receipt of the petition, the
 3 board shall within thirty (30) days deny the request in
 4 writing or schedule the matter for action under this
 5 subsection.

6 (e) In emergencies, the board may summarily adopt,
 7 amend or repeal any rule, if at the same time it promulgates
 8 a finding that the action is necessary for the immediate
 9 preservation of the public peace, health, safety, morals,
 10 good order or general welfare, together with a statement of
 11 facts constituting the emergency.

12 (2) In any hearing under this section, the board or
 13 its duly authorized representative has authority to
 14 administer oaths or affirmations, and may continue or
 15 postpone that hearing from time to time and at a place it
 16 prescribes.

17 (3) The board or any applicant or licensee may obtain
 18 a judicial determination of a question of construction or
 19 validity arising under this chapter or any regulation of the
 20 board by bringing an action for a declaratory judgment in
 21 the first judicial district court of the state of Montana,
 22 in and for the county of Lewis and Clark. A question of
 23 construction or validity of this act or rule of the board is
 24 a justifiable controversy.

25 Section 13. Ejectment list. (1) The board may by

1 regulation provide for the establishment and distribution to
 2 all licensees a list of persons who are to be excluded or
 3 ejected from any licensed gaming establishment. This list
 4 may include any person:

- 5 (a) who is of notorious or unsavory reputation;
- 6 (b) who has been convicted of a crime which is a
 7 felony in the state of Montana or under the laws of the
 8 United States or a crime involving moral turpitude; or
- 9 (c) whose presence in a licensed gaming establishment
 10 would, in the opinion of the board, be inimical to the
 11 interests of the state of Montana, or of licensed gambling,
 12 or both.

13 (2) Race, color, creed, national origin or ancestry,
 14 or sex shall not be grounds for placing the name of a person
 15 upon such list.

16 (3) Any list compiled by the board of persons to be
 17 excluded or ejected shall not be deemed an all-inclusive
 18 list, and licensed gaming establishments have a duty to keep
 19 from their premises persons known to them to be inimical to
 20 the interests of the state of Montana or of licensed
 21 gambling, or both.

22 Section 14. Ejection list — notice to individual.
 23 Whenever the name and description of any person is placed on
 24 a list under section 13, the board shall serve notice of
 25 this fact to the person either by:

- 1 (1) personal service,
- 2 (2) certified mail to the last-known address of that
 3 person, or
- 4 (3) publication daily for one (1) week in a newspaper
 5 published and circulated in the area of his last-known
 6 address.

7 Section 15. Ejection — appeal. (1) Within thirty
 8 (30) days after service by mail or in person or sixty (60)
 9 days from the time of the first publication, as provided in
 10 section 14, the person named may demand a hearing before the
 11 board and show cause why he should have his name taken from
 12 the list. Failure to demand a hearing within the time
 13 allotted in this section precludes the person from an
 14 administrative hearing, but does not affect his right to
 15 petition for judicial review as provided in section 44 of
 16 this act.

17 (2) Upon receipt of a demand for hearing, the board
 18 shall set a time for the hearing. The hearing shall be held
 19 in the offices of the board at Helena. A hearing shall be
 20 held not later than thirty (30) days after receipt of
 21 demand, unless the time and place of the hearing is changed
 22 by agreement of the board and the person demanding the
 23 hearing.

24 (3) If, upon completion of the hearing the board
 25 determines that:

1 (a) The regulation does not or should not apply to the
 2 person so listed, the board shall notify all persons
 3 licensed under this act of that determination.

4 (b) Placing the person on the exclusion or ejection
 5 list was proper, the board shall make and enter in its
 6 minutes an order to that effect. This order is subject to
 7 review by any court of competent jurisdiction in accordance
 8 with the provisions for judicial review set forth in section
 9 44 of this act.

10 Section 16. Ejection — failure of licensee to act.
 11 The board may revoke, limit, condition, suspend or fine the
 12 licensed gaming establishment of individual licensee, in
 13 accordance with the laws of the state of Montana and the
 14 regulations of the board, if a licensed gaming establishment
 15 or any individual licensee knowingly fails to exclude or
 16 eject from the premises of any licensed gaming establishment
 17 any person placed on the list of persons to be excluded or
 18 ejected.

19 Section 17. Ejection — ejected person — violation.
 20 Any person who has been placed on the list of persons to be
 21 excluded or ejected from any licensed gaming establishment
 22 under section 13 is guilty of a misdemeanor if he enters the
 23 premises of a licensed gaming establishment without first
 24 obtaining a determination by the board that he should not
 25 have been placed on the list of persons to be excluded or

1 ejected.

2 Section 18. Regulation of licensee fiscal matters. The
 3 board shall by regulation: (1) prescribe minimum procedures
 4 for adoption by each licensee to exercise effective control
 5 over its internal fiscal affairs, which shall include but
 6 are not limited to provisions for:

7 (a) the safeguarding of its assets and revenues,
 8 especially the recording of cash and evidences of
 9 indebtedness; and

10 (b) the provision of reliable records, accounts and
 11 reports of transactions, operations and events, including
 12 reports to the board; and

13 (2) provide for the adoption and use of internal
 14 audits, whether by qualified internal auditors or by
 15 accountants holding a permit to practice public accounting,
 16 in the case of each licensee whose operation equals or
 17 exceeds a specified size. As used in this subsection
 18 "internal audit" means a type of control which operates
 19 through the testing and evaluation of other controls and
 20 which is also directed toward observing proper compliance
 21 with the minimum standards of control prescribed pursuant to
 22 subsection (1).

23 Section 19. Financial reports. The board shall by
 24 regulation require periodic financial reports from each
 25 licensee, and:

1 (1) specify standard forms for reporting financial
2 condition, results of operations and other relevant
3 financial information;

4 (2) formulate a uniform code of accounts and
5 accounting classifications to assure consistency,
6 comparability and effective disclosure of financial
7 information;

8 (3) prescribe the intervals at which this information
9 shall be furnished. For this purpose the board may classify
10 licensees by size of operation.

11 Section 20. Required audits. (1) The board shall by
12 regulation require audits of the financial statements of all
13 licensees with an annual gross revenue of one million
14 dollars (\$1,000,000) or more. These audits shall be made
15 not less frequently than once a year and whenever the
16 ownership of this type of license changes.

17 (2) The board may require audits of the financial
18 statements of licensees with an annual gross revenue of less
19 than one million dollars (\$1,000,000) and whenever the
20 ownership of that license changes.

21 (3) The audits provided for in subsections (1) and (2)
22 shall be made at the expense of the licensees by independent
23 accountants holding permits to practice public accounting in
24 the state of Montana.

25 (4) Regulations for audits shall require, among other

1 things, that:

2 (a) The independent accountants shall submit an audit
3 report which shall express an unqualified or qualified
4 opinion or, if appropriate, disclaim an opinion on the
5 statements taken as a whole in accordance with standards for
6 the accounting profession established by rules and
7 regulations of the Montana state board of public
8 accountants, but the preparation of statements without audit
9 does not constitute compliance.

10 (b) The examination and audit shall disclose whether
11 the accounts, records and control procedures maintained by
12 the licensee are as required by the regulations published by
13 the board under this act.

14 Section 21. Penalties for noncompliance with rules.
15 The board shall by regulation prescribe a scale of
16 penalties, financial and otherwise, to be imposed on
17 licensees for noncompliance with its regulations.

18 Section 22. Audit regulations. The board shall by
19 regulation provide for:

20 (1) the organization of the board's audit function in
21 conformity with other accounting and auditing provisions of
22 its regulations and with acceptable and modern auditing
23 practices;

24 (2) the organization and administration of an economic
25 research and planning function by a central body which shall

1 gather, evaluate and disseminate facts regarding the
 2 economics of the gaming industry and economic conditions
 3 affecting the industry. The regulations shall include
 4 provision for the organizational status of this body, its
 5 staffing structure, and a budget for its operation.

6 Section 23. Violation — penalty. (1) It is unlawful
 7 for any person, either as owner, lessee or employee, whether
 8 for hire or not, to operate, carry on, conduct or maintain
 9 in the state of Montana any form of manufacture, rebuilding,
 10 reconditioning, selling or distribution of any device,
 11 equipment, material or machine used in gambling, without
 12 having first procured a license for manufacture, rebuilding,
 13 reconditioning, selling or distribution as provided in this
 14 act.

15 (2) Violation of the provisions of this section is a
 16 felony, punishable upon conviction by imprisonment in the
 17 state prison for not less than five (5) years and not more
 18 than ten (10) years, and no court has authority to suspend
 19 or defer sentence or to place any person convicted hereunder
 20 on probation.

21 (3) Any person whom the commission determines to be a
 22 suitable person to receive a license under the provisions of
 23 this act, having due consideration for the proper protection
 24 of the public health, safety, morals, good order and general
 25 welfare of the inhabitants of the state of Montana, may be

1 issued a manufacturer's or distributor's license. The
 2 burden of providing his qualifications to receive or hold
 3 any license under this act is on the applicant or licensee.

4 Section 24. License required — manufacture. A person
 5 desiring to manufacture, rebuild or recondition any device,
 6 equipment, material or machine used in gambling, under this
 7 act, shall first apply to the board for a license, and
 8 tender the license fee prescribed, together with so much of
 9 the anticipated fees and costs of investigation of that
 10 applicant as required by the board. Upon being satisfied
 11 from the application, or otherwise, that this applicant is
 12 qualified in accordance with this act and the regulations of
 13 the board, the board shall issue a license to that person.
 14 The license shall be prominently displayed in the place of
 15 business of the licensee; and thereafter a licensed
 16 manufacturer is entitled to manufacture, rebuild, or
 17 recondition devices, equipment, materials or machines used
 18 in gambling and to sell them within this state to
 19 distributors licensed under this act or for use outside this
 20 state in conformity to applicable laws of the United States.
 21 If the board finds that the applicant is not qualified, no
 22 license may be granted and the license fee tendered shall be
 23 returned, together with that portion, if any, of the
 24 anticipated fees and costs of investigation which were not
 25 used in the investigation of the applicant.

1 Section 25. License required — distribute. Any
 2 person desiring to sell, lease, repair, maintain and
 3 distribute any device, equipment, material, or machine used
 4 in gambling, under this act, shall first apply to the board
 5 for a license and tender the license fee prescribed,
 6 together with so much of the anticipated fees and costs of
 7 investigation of that applicant as required by the board.
 8 To qualify for a distributor's license the applicant shall
 9 have been a resident of Montana for a period of two (2)
 10 years immediately prior to making application, or if the
 11 applicant is a Montana corporation that corporation shall
 12 have been organized for a period of two (2) years
 13 immediately prior to application; provided, however, any
 14 individual or partnership which has been licensed as a
 15 distributor may, upon incorporation in accordance with the
 16 laws of the state of Montana, transfer a license to the
 17 corporation if a majority of the capital stock thereof is
 18 held by the individual or the members of the partnership.
 19 That applicant shall have a fixed place of business,
 20 sufficient capital, and properly safeguarded facilities,
 21 storehouse, receiving house, or warehouse for the receiving
 22 of, storage, repair and maintenance, and handling of
 23 wholesale quantities of devices, equipment, materials, or
 24 machines used in gambling for distribution, lease, or sale
 25 to other licensed distributors and gaming licensees. After

1 being satisfied from an application, or otherwise, that the
 2 applicant is qualified in accordance with this act and the
 3 regulations of the board, the board shall issue a license to
 4 the person, which license shall be at all times prominently
 5 displayed in the place of business of the licensee; and
 6 thereafter the licensed distributor shall be privileged to
 7 sell, lease, and distribute devices, equipment, materials,
 8 and machines used in gambling to other licensed distributors
 9 and gaming licensees and to repair and maintain devices,
 10 equipment, materials and machines. If the board finds that
 11 the applicant is not qualified, no license may be granted
 12 and the license fee tendered shall be returned, together
 13 with that portion, if any, of the anticipated fees and costs
 14 of investigation which were not used in the investigation of
 15 the applicant.

16 Section 26. Report by licensed wholesaler. In order
 17 to control and regulate the traffic in devices, equipment,
 18 materials, and machines used in gambling, and thereby
 19 protect the public health, safety, morals and good order and
 20 general welfare of the inhabitants of the state of Montana,
 21 all devices, equipment, materials and machines used in
 22 gambling, whether manufactured, rebuilt or reconditioned
 23 within or outside the state of Montana, shall be consigned
 24 and shipped by a licensed manufacturer to a distributor
 25 licensed under this act and unloaded into that distributor's

1 warehouse in Montana. The distributor shall keep records at
 2 his warehouse of all devices, equipment, materials, and
 3 machines used in gambling which he receives, including the
 4 names and kinds received, serial numbers or other
 5 identifying characters or symbols where applicable, and the
 6 names and addresses of the licensed distributors and gaming
 7 licensees to whom these devices, equipment, materials, and
 8 machines are sold or leased. These records shall be
 9 available for inspection at all times by any member or
 10 representative of the board.

11 Every distributor licensed hereunder shall make, on or
 12 before the fifteenth day of each January, April, July and
 13 October, an exact return to the board of all devices,
 14 equipment, materials and machines used in gambling which he
 15 received and sold or leased during the previous calendar
 16 quarter; the serial numbers or other identifying characters
 17 or symbols where applicable, and the names and addresses of
 18 the purchasers of lessees in the manner and on a form the
 19 board prescribes, and the board, at any time, may examine a
 20 distributor's books and premises and otherwise check the
 21 accuracy of a return.

22 Failure by a distributor to make a return required
 23 hereunder or falsification by a distributor of any material
 24 fact contained in a return shall be punished by the board by
 25 suspension of license for a period not exceeding sixty (60)

1 days; and upon a second failure or falsification the board
 2 shall revoke the license.

3 Section 27. License fee — manufacturer — distributor
 4 — expiration. (1) Each manufacturer, wherever located,
 5 whose product is sold or offered for sale to a licensed
 6 distributor within this state, shall pay, on or before the
 7 first day of July, an annual license fee of three thousand
 8 five hundred dollars (\$3,500).

9 (2) Each distributor licensed hereunder shall pay, on
 10 or before the first day of July, an annual license fee of
 11 two thousand dollars (\$2,000).

12 (3) All licenses issued in any year shall expire on
 13 June 30 at midnight. Regardless of the date of application
 14 or issuance of the license, the fee to be charged and
 15 collected under this section shall be the full annual fee.

16 Section 28. Legislative findings and declarations —
 17 special fee. (1) The legislature finds and declares as
 18 facts:

19 (a) that the inspection of electronic and mechanical
 20 devices and all other equipment and materials used in
 21 gambling is essential to carry out the provisions of this
 22 act; and

23 (b) that an inspection is greatly facilitated in the
 24 case of devices, equipment and materials manufactured within
 25 this state by the opportunity to inspect components prior to

1 assembly and to examine the methods of manufacture.

2 (2) The board or its authorized representatives may
3 inspect every device or machine used in gambling, and all
4 other equipment or materials which are manufactured, sold or
5 distributed:

6 (a) for use in this state, before the device,
7 equipment or materials are put into play;

8 (b) in this state for use outside this state, before
9 the device, equipment or materials are shipped out of this
10 state.

11 (3) In addition to all other fees and charges imposed
12 by this act, the board may determine, charge and collect an
13 inspection fee from each manufacturer, seller or distributor
14 which shall not exceed the actual cost of inspection and
15 investigation.

16 Section 29. Prohibitions. It is unlawful for any
17 person, either as owner, lessee or employee, whether for
18 hire or not, either solely or in conjunction with others:

19 (a) to deal, operate, carry on, conduct, maintain or
20 expose for play in the state of Montana any game or
21 coin-operated machine as defined in this act;

22 (b) to provide or maintain any information service the
23 primary purpose of which is to aid the placing or making of
24 wagers on events of any kind; or

25 (c) to receive, directly or indirectly, any

1 compensation or reward or any percentage or share of the
2 money or property played, for keeping, running or carrying
3 on any game or coin-operated machine without having first
4 procured, and thereafter maintaining in full force and
5 effect, all federal and state gaming licenses as required by
6 statute.

7 (2) It is unlawful for any person to lend, let, lease
8 or otherwise deliver or furnish any equipment of any
9 gambling game, including any coin-operated machine, for any
10 interest or any percentage or share of the money or property
11 played, under guise of any agreement whatever, without
12 having first procured a state gaming license for that
13 purpose.

14 (3) It is unlawful for any person to lend, let, lease
15 or otherwise deliver or furnish, except by a bona fide sale,
16 any coin-operated machine under guise of any agreement
17 whatever where a consideration is paid or is payable for the
18 right to possess or use that coin-operated machine, whether
19 the consideration is measured by a percentage of the revenue
20 derived from that machine or by a fixed fee or otherwise,
21 without having first procured a state gaming license for
22 that machine.

23 (4) It is unlawful for a person to furnish services or
24 property, real or personal, on a contract, lease or license
25 basis, under which a person receives payment based on

1 earnings or profits or otherwise from any gambling game,
 2 including any coin-operated machine, without having first
 3 procured a state gaming license.

4 (5) Any person who knowingly permits any gambling
 5 game, coin-operated machine or device to be conducted,
 6 operated, dealt or carried on in any house or building or
 7 other premises owned by him, in whole or in part, except by
 8 a person who is licensed hereunder, or his employee, is
 9 guilty of a felony, and upon conviction is subject to the
 10 penalties set forth in section 46 of this act and the house
 11 or building or other premises shall be closed for a minimum
 12 period of one (1) year.

13 (6) Any licensee who puts additional games or
 14 coin-operated machines into play or displays games or
 15 coin-operated machines in a public area without authority of
 16 the board to do so is subject to the penalties provided in
 17 section 46 of this act.

18 (7) The provisions of subsections (2), (3) and (4) do
 19 not apply to any person:

20 (a) whose payments are a fixed sum determined in
 21 advance on a bona fide basis for the furnishing of services
 22 or property other than a coin-operated machine;

23 (b) who furnishes services or property under a bona
 24 fide rental agreement or security agreement for gaming
 25 equipment.

1 (8) The board may determine the suitability, or may
 2 require the licensing, of any person who furnishes services
 3 or property to a state gaming licensee under any arrangement
 4 under which that person receives payment based on earnings,
 5 profits or receipts from gaming. The board may require a
 6 person to comply with the requirements of this act and with
 7 the regulations of the board. If the board determines that
 8 a person is unsuitable, it shall require the arrangement to
 9 be terminated.

10 Section 30. License application. Any person desiring
 11 a state gaming license shall first apply to the board for a
 12 license and tender with the application the prescribed
 13 license fee, together with that portion of the anticipated
 14 fees and costs of investigation of the applicant required by
 15 the board. The burden of proving his qualification to
 16 receive or hold license is on the applicant or licensee.

17 To qualify for a gaming license the applicant shall
 18 have been a resident of Montana for a period of two (2)
 19 years immediately prior to making application, or if the
 20 applicant is a Montana corporation that corporation shall
 21 have been organized for a period of two (2) years
 22 immediately prior to making application; provided, however,
 23 any individual or partnership which has been licensed under
 24 this act, upon incorporation in accordance with the laws of
 25 the state of Montana, may transfer the license to the

1 corporation if a majority of the capital stock of that
 2 corporation is held by the individual or the members of the
 3 partnership.

4 Application for a gaming license shall be made to the
 5 board on forms furnished by the board and in accordance with
 6 rules of the board.

7 The application shall set forth:

- 8 (1) the name of the proposed licensee;
- 9 (2) the location of his fixed place of business;
- 10 (3) the names and addresses of all persons directly or
 11 indirectly interested in the business and the nature and
 12 extent of that interest;
- 13 (4) the amount of unencumbered capital in the
 14 business; and
- 15 (5) other information and details the board requires
 16 in order to discharge its duties.

17 The board shall furnish to the applicant supplemental
 18 forms which the applicant shall complete and file with the
 19 application. These supplemental forms shall require, but
 20 shall not be limited to, complete information and details
 21 with respect to the applicant's antecedents, habits,
 22 character, criminal record, business activities, financial
 23 affairs and business activities, financial affairs and
 24 business associates, covering at least a ten (10) year
 25 period immediately preceding the date of filing of the

1 application.

2 No limited or general partnership, business trust or
 3 organization or other association of a quasi-corporate
 4 character is eligible to receive or hold a gaming license
 5 unless all persons having any direct or indirect interest
 6 therein of any nature, whether financial, administrative,
 7 policymaking, or supervisory, are individually qualified to
 8 be licensed under this act.

9 Upon being satisfied from the application, or
 10 otherwise, that an applicant is qualified in accordance with
 11 this act and the rules of the board, the board shall issue a
 12 license to the person, license shall be displayed
 13 prominently in the place of business of a licensee; and
 14 thereafter a gaming licensee is entitled to engage in gaming
 15 under this act.

16 The board has full and absolute power and authority to
 17 deny an application for a license for any reasonable cause.
 18 If the board finds that an applicant is not qualified, no
 19 license may be granted and the tendered license fee shall be
 20 returned together with that portion, if any, of the
 21 anticipated fees and costs of investigation which were not
 22 used in the investigation of the applicant.

23 Section 31. License fees. Each gaming licensee
 24 licensed in accordance with this act shall pay, on or before
 25 the first day of July, an annual basic license fee as

1 follows:

2 (1) except as hereinafter provided, for each gaming
3 license outside of incorporated cities and towns, or in
4 incorporated cities and towns with a population of less than
5 two thousand (2,000), two hundred dollars (\$200) per annua;

6 (2) except as hereinafter provided, for each gaming
7 license in incorporated cities with a population of more
8 than two thousand (2,000) and less than five thousand
9 (5,000), or within a distance of five (5) miles thereof,
10 three hundred dollars (\$300) per annua;

11 (3) except as hereinafter provided, for each gaming
12 license in incorporated cities with a population of more
13 than five thousand (5,000) and less than ten thousand
14 (10,000), or within a distance of five (5) miles thereof,
15 four hundred fifty dollars (\$450) per annua;

16 (4) except as hereinafter provided, for each gaming
17 license in incorporated cities with a population of ten
18 thousand (10,000) or more, or within a distance of five (5)
19 miles thereof, six hundred dollars (\$600) per annua.

20 (5) the distance of five (5) miles from the corporate
21 limits of any incorporated cities and towns shall be
22 measured in a straight line from the nearest entrance of the
23 premises to be licensed to the nearest boundary of the city
24 or town, and where the premises of the applicant to be
25 licensed are situated within five (5) miles of the corporate

1 boundaries of two (2) or more incorporated cities or towns
2 of different populations the license chargeable by reason of
3 the larger incorporated city or town applies; provided,
4 however, that when the premises of the applicant to be
5 licensed are situated within an incorporated city or town
6 and any portion of that incorporated city or town is without
7 the five (5) mile limit then the license fee chargeable by
8 reason of the smaller incorporated city or town applies.

9 The census taken under the direction of the congress of
10 the United States in the year 1970, and every ten (10) years
11 thereafter, is the basis upon which the respective
12 populations of a municipality shall be determined, provided,
13 however, no census taken shall be a basis until it has been
14 officially published by entity which performed the census;
15 then its effect is from the date of publication, provided,
16 further, that none of the provisions of this act are to
17 operate retroactively.

18 In addition to the basic gaming license fee provided
19 above, the board shall charge and collect on or before the
20 first day of July, from each applicant an annual games
21 license fee to be determined and paid in advance on the
22 following basis: One hundred dollars (\$100) per game
23 exclusive of punchboards and coin-operated machines proposed
24 to be operated.

25 Both the basic gaming license and the games license

1 shall be at all times prominently displayed in the place of
2 business of a licensee.

3 All of the licenses issued in any year expire on the
4 30th day of June at midnight. Regardless of the date of
5 application or issuance of the license, the fee to be
6 charged and collected for the licenses under this act is the
7 full annual fee.

8 If the applicant for a basic gaming license proposes to
9 operate coin-operated machines, either alone or in
10 conjunction with other games, the board shall charge and
11 collect from that applicant an additional license fee of
12 fifty dollars (\$50) for each coin-operated machine for each
13 quarter year. The board shall charge and collect this fee:

14 (a) on or before the last day of the last month in a
15 calendar quarter for the ensuing calendar quarter, from a
16 licensee whose operation is continuing, and

17 (b) in advance from a licensee who begins operation or
18 puts additional coin-operated machines into play during a
19 calendar quarter.

20 No proration of a fee may be allowed for any reason.
21 The gaming licensee who is the operator of the location
22 where coin-operated machines are situated shall pay the fee
23 upon the total number of coin-operated machines situated in
24 a location, whether all machines are owned by one or more
25 licensee-owners. The total number of coin-operated machines

1 shall be computed in the same manner as is used by the
2 United States of America in imposing the federal tax
3 provided by 26 U.S.C. section 4461.

4 Section 32. Special events — holidays. (1) As used
5 in this section, "holidays" or "special events" refer to
6 periods during which the influx of tourist activity in this
7 state or an area of this state may require additional gaming
8 industry accomodation, as determined by the board.

9 (2) A gaming licensee holding a valid license under
10 this act may apply to the board, on application forms
11 prescribed by the board, for a holiday or special event
12 permit for the purpose of increasing the licensee's game
13 operations during holidays or special events.

14 (3) The application shall be filed with the board at
15 least ten (10) days prior to the date when games are to be
16 added.

17 (4) If the board approves the application, it shall
18 issue to the licensee a permit to operate additional games,
19 not to exceed twenty-five percent (25%) of the number of
20 games operated by the licensee at the time the application
21 is filed. The permit shall state the period for which it is
22 issued and the number of additional games allowed. For
23 purposes of computation, any fractional game shall be
24 counted as one (1) full game. The licensee shall present
25 permit on the demand of any inspecting agent of the board.

1 (5) Before issuing a permit, the board shall charge
 2 and collect from the licensee a fee of fifteen dollars (\$15)
 3 per game per day for each day the permit is effective. This
 4 fee is in lieu of the fees required under section 31 of this
 5 act.

6 (6) A permit may not be issued to any licensee for
 7 more than forty (40) cumulative days during any calendar
 8 year, nor for a period longer than ten (10) days during any
 9 calendar quarter year. A ten (10) day period during a
 10 calendar quarter year may be consecutive or divided into two
 11 (2) lesser periods. For the purposes of computation, one
 12 (1) day is equal to a twenty-four (24) hour period.

13 (7) If any additional games are not removed at the
 14 time the permit expires, the licensee is subject to the fees
 15 provided for in section 31 of this act and all other
 16 applicable provisions of this chapter.

17 Section 33. Religious and charitable games. The board
 18 may approve the operation of a game or games by a religious,
 19 charitable or educational organization subject to conditions
 20 and limitations the board imposes but no approval may be
 21 given by the board for the operation of a game or games for
 22 more than one (1) event or function conducted or sponsored
 23 by one religious, charitable or educational organization
 24 during any one (1) quarter calendar year.

25 Section 34. Fee equal to tax credit. (1) In addition

1 to any other license fees and taxes imposed by this chapter,
 2 there is imposed upon each coin-operated machine operated in
 3 this state a tax equal to the amount of any credit which may
 4 be allowed against the tax imposed on those machines by 26
 5 U.S.C. section 4461 or other federal statute for the payment
 6 of a state tax. If no credit is allowed, no tax is payable
 7 under this subsection.

8 (2) The board shall:

9 (a) collect the tax annually in advance, prior to June
 10 20, as a condition precedent to the issuance of a state
 11 gaming license to operate any coin-operated machine;

12 (b) include the proceeds of the tax in its reports of
 13 state gaming taxes collected.

14 (3) The board shall pay over the tax as collected to
 15 the state treasurer to be deposited to the credit of the
 16 state school fund.

17 Section 35. Taxes on punchboards. (1) A tax of three
 18 percent (3%) of the gross retail value of all possible plays
 19 is levied and imposed on each and every punchboard sold in
 20 this state. Each licensed manufacturer shall furnish to the
 21 board a copy of each invoice covering sales and shipments of
 22 punchboards to licensed distributors at the time of sale and
 23 shipment, and the tax shall be paid by a licensed
 24 manufacturer at that time.

25 (2) Each punchboard marketed and used in this state

1 shall bear three (3) borders, one (1) along each vertical
 2 edge of the face and another across the top of the face, on
 3 which borders shall be continuous printed declarations of
 4 the value of punches, that is, for example,
 5 5¢-5¢-5¢-5¢-5¢-5¢; and each board shall bear a border across
 6 the bottom of its face carrying the following declaration:
 7 "The Montana tax paid on this board is \$_____." The board
 8 may by regulation designate the manner and size of printing,
 9 embossing, engraving, or otherwise applying the borders and
 10 may specify additional identifying symbols or seals to
 11 safeguard against counterfeiting punchboards.

12 Section 36. Refund of erroneously collected fees and
 13 taxes. State gaming license fees erroneously collected may
 14 be refunded, upon the approval of the board, as other claims
 15 against the state are paid.

16 Section 37. Willful evasion of tax or fee. A person
 17 who willfully fails to report, pay or truthfully account for
 18 and pay over the license fees imposed by this chapter, or
 19 willfully attempts in any manner to evade or defeat any such
 20 tax or payment thereof, or any licensee who puts additional
 21 games or coin-operated machines into play without authority
 22 of the board to do so or any licensee who fails to remit any
 23 license fee provided for by this chapter when due shall in
 24 addition to the amount due be liable for a penalty of twice
 25 the amount of the license fee evaded or not paid over, which

1 penalty shall be assessed and collected in the same manner
 2 as are other charges, license fees and penalties under this
 3 chapter.

4 Section 38. Declaration of state's exemption from
 5 operation of provisions of 15 U.S.C. section 1172. Under
 6 section 2 of the Gambling Devices Transportation Act, 15
 7 U.S.C. 1171 et seq., the state of Montana declares it is
 8 exempt from the provisions of that section of that act.

9 Section 39. Legal shipments of slot machines into the
 10 state of Montana. All shipments of slot machines into this
 11 state, the registering, recording and labeling of which has
 12 been had by the manufacturer or dealer thereof in accordance
 13 with sections 3 and 4 of the Gambling Devices Transportation
 14 Act, 15 U.S.C. 1171 et seq., are legal shipments into this
 15 state.

16 Section 40. Minors may not participate. (1) No
 17 person under the age of eighteen (18) years shall:

18 (a) play, or be allowed to play, any licensed game or
 19 coin-operated machine regulated and licensed by this
 20 chapter;

21 (b) loiter, or be permitted to loiter, in or about any
 22 room or premises wherein any licensed game is operated or
 23 conducted.

24 (2) Any licensee, employee, dealer or other person who
 25 shall knowingly violate or permit the violation of any of

1 the provisions of this section and any person, under
2 eighteen (18) years of age, who violates any of the
3 provisions of this section is guilty of a misdemeanor.

4 Section 41. Confidential records — work permits.

5 (1) The legislature finds that, in order to protect and
6 promote the health, safety, morals, good order and general
7 welfare of the inhabitants of the state of Montana, and to
8 carry out the policy of section 2 of this act, it is
9 necessary that the board:

10 (a) ascertain and keep itself informed of the
11 identity, prior activities, and present location of all
12 gaming employees in the state of Montana, and

13 (b) maintain confidential records of this information.

14 (2) All persons desiring employment in any gaming
15 establishment, distribution firm or manufacturing firm
16 licensed hereunder, with the exception of bartenders,
17 cocktail waitresses or other persons engaged in preparing or
18 serving food or beverages, shall apply under oath to the
19 board, on forms to be furnished by the board, for a work
20 permit. These forms shall inquire into, but not be limited
21 to, such areas as the applicant's antecedents, habits,
22 character, associates, criminal record, business activities,
23 and financial affairs. Within thirty (30) days after an
24 application is filed with the board, the board shall issue
25 or deny a work permit to the applicant. The board's

1 decision is final and conclusive.

2 (3) All records acquired and compiled by the board
3 relating to any application made under this section are
4 confidential and no part thereof may be disclosed except in
5 the proper administration of this act or to an authorized
6 law enforcement agency. All lists of persons to whom work
7 permits have been issued or denied and all records of the
8 names or identity of persons engaged in the gaming industry
9 in this state are confidential and shall not be disclosed
10 except in the proper administration of this chapter or to an
11 authorized law enforcement agency.

12 (4) No person may be employed as a gaming employee
13 unless he is the holder of a valid work permit issued in
14 accordance with this section. No work permit may be issued
15 to a person who has been convicted of a felony unless he has
16 been pardoned.

17 (5) If any gaming employee is convicted of a violation
18 of this act, his work permit is considered revoked and the
19 board shall proceed accordingly.

20 (6) If any gaming employee's work permit is revoked
21 for any reason other than a conviction of a violation of
22 this act, he is entitled to judicial review of the board's
23 action in the manner prescribed by section 44 of this act.

24 (7) If any licensee employs a person required by this
25 chapter to have a work permit without that person's having a

1 permit, the board shall suspend the license of the licensee
 2 for a period not exceeding sixty (60) days.

3 Section 42. Investigative hearings. (1) The board
 4 shall investigate any apparent or suspected violations of
 5 this act which come to its attention and, when disciplinary
 6 or other action is to be taken against a licensee, it shall
 7 conduct the necessary investigative hearings.

8 (2) If, after investigation, the board is satisfied
 9 that a license should be limited, conditioned, suspended, or
 10 revoked, it shall give the licensee an opportunity to be
 11 heard in accordance with the provisions of section 43 of
 12 this act by filing a complaint on its official docket.

13 (3) If, after hearing in conformity to section 43 of
 14 this act, the board finds a violation of this act has been
 15 committed by a licensee, the board may:

16 (a) limit, condition, suspend, or revoke the license
 17 of any licensed gaming establishment or the individual
 18 license of any licensee without affecting the license of the
 19 establishment,

20 (b) order a licensed gaming establishment to keep an
 21 individual licensee from the premises of the licensed gaming
 22 establishment or not to pay the licensee any remuneration
 23 for services or any profits, income or accruals on his
 24 investment in that licensed gaming establishment, and

25 (c) fine a licensed gaming establishment in an amount

1 OF AT LEAST TEN THOUSAND DOLLARS (\$10,000), BUT not to
 2 exceed one hundred thousand dollars (\$100,000) for the first
 3 violation by an establishment, or fine an individual
 4 licensee in an amount not to exceed fifty thousand dollars
 5 (\$50,000) for the first violation by that individual, for a
 6 reasonable cause. All fines shall be paid to the state
 7 treasurer for deposit in the general fund in the state
 8 treasury.

9 (4) For the second violation of provisions of this act
 10 by any licensee, the board shall revoke the license of that
 11 licensee.

12 (5) In the event the board limits, conditions,
 13 suspends, or revokes a license or imposes a fine, it shall
 14 issue a written order of that action.

15 (6) Any limitation, condition, revocation, suspension
 16 or fine is effective until reversed or modified upon
 17 judicial review except that the board may stay its order
 18 pending a rehearing or judicial review upon terms and
 19 conditions as it considers proper.

20 (7) Judicial review of an order or decision of the
 21 board may be had in accordance with section 44 of this act.

22 Section 43. Hearing — procedure — effect — contempt
 23 — review. (1) The complaint referred to in section 42 of
 24 this act shall be a written statement of charges which shall
 25 set forth in ordinary and concise language the acts or

1 omissions with which the respondent is charged. It shall
2 specify the statutes and rules which the respondent is
3 alleged to have violated.

4 (2) Upon the filing of the complaint, the board shall
5 serve a copy of the complaint upon the respondent either
6 personally, or by certified mail at his address on file with
7 the board.

8 (3) The board shall include with the copy of the
9 complaint served upon respondent three (3) copies of a form
10 entitled "Notice of Defense" which, when completed and
11 signed by or on behalf of the respondent and returned to the
12 board, will acknowledge service of the complaint and
13 constitute a "Notice of Defense" under subsection (5) of
14 this section.

15 (4) The notice of defense shall read substantially as
16 follows:

17 ***NOTICE OF DEFENSE**

18 ***INSTRUCTIONS TO RESPONDENT:** Two copies of this form should
19 be filed with the Montana gaming control board, Helena,
20 Montana, within 15 days after service upon you of the
21 enclosed complaint. The form must be signed by you or on
22 your behalf. You will note that blanks are provided for any
23 information you wish to supply.

1
2 "Do you request a hearing? Yes No

3 "Do you admit the facts stated
4 in the complaint? Yes No

5 If you admit some of the facts stated in the complaint
6 but deny others, please specify.

7 (space for answer)

8 "Are there any defenses or explana-
9 tions which you believe the board
10 should consider? Yes No

11 If so, please specify:

12 (space for answer)

13 "Do you wish to state any legal
14 objections to the complaint? Yes No

15 If so, please specify:

16 (space for answer)

17 ***NOTE:** If you fail to file two copies of this form as
18 specified, the board may proceed upon the complaint
19 without a hearing."

20 (5) Within fifteen (15) days after service of the
21 complaint, the respondent may file with the board a notice
22 of defense in which he may:

- 23 (a) request a hearing;
- 24 (b) admit the accusation in whole or in part;
- 25 (c) present new matter or explanations by way of
26 defense; and
- 27 (d) state any legal objections to the complaint.

28 Within the time specified respondent may file one or
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1 more notices of defense upon any or all of the above
 2 grounds, but all of these notices shall be filed within the
 3 period specified above unless the board authorizes the
 4 filing of a later notice.

5 (6) The respondent is entitled to a hearing on the
 6 merits if he files a notice of defense within the time
 7 allowed by subsection (5), and this notice is a specific
 8 denial of all parts of the complaint not expressly admitted.
 9 Failure to file a notice of defense within the time allowed
 10 by subsection (5) constitutes a waiver of respondent's right
 11 to a hearing and to judicial review of any decision or order
 12 of the board, but the board may order a hearing. All
 13 affirmative defenses shall be specifically stated and unless
 14 objection is taken as provided in paragraph (d) of
 15 subsection (5), all objections to the form of the complaint
 16 are waived.

17 (7) The board shall determine the time and place of
 18 the hearing as soon as is reasonably practical after
 19 receiving the respondent's notice of defense. The board
 20 shall deliver or send by certified mail a notice of hearing
 21 to all parties at least ten (10) days prior to the hearing.
 22 Unless respondent consents, the hearing shall not be prior
 23 to the expiration of the time within which the respondent is
 24 entitled to file a notice of defense.

25 (8) The notice of hearing shall be substantially in

1 the following form, but may include other information:
 2 "YOU ARE HEREBY NOTIFIED that a hearing will be held before
 3 the Montana gaming control board at (here insert place of
 4 hearing) on the ___ day of _____, 19___, at the hour
 5 of _____, upon the charges made in the complaint served
 6 upon you. You may be present at the hearing and may be, but
 7 need not be, represented by counsel. You may present any
 8 relevant evidence, and you will be given full opportunity to
 9 cross-examine all witnesses testifying against you. You are
 10 entitled to the issuance of subpoenas to compel the
 11 attendance of witnesses and the production of books,
 12 documents, or other things by applying to the Montana gaming
 13 control board."

14 (9) Notwithstanding any other provisions of this
 15 section, the board may issue an emergency order for
 16 suspension, limitation or conditioning of a license or
 17 requiring a licensed gaming establishment to keep an
 18 individual licensee from the premises of a licensed gaming
 19 establishment or not to pay the licensee remuneration for
 20 services or profits, income or accruals on his investment in
 21 the licensed gaming establishment in the following manner:

22 (a) An emergency order shall be issued only when the
 23 board believes that:

24 (i) there has been a violation of sections 46, 48, or
 25 49 of this act;

1 (ii) the action is necessary to prevent a violation of
2 those sections of this act; or

3 (iii) the action is necessary for the immediate
4 preservation of the public peace, health, safety, morals,
5 good order or general welfare.

6 (b) The emergency order shall set forth the grounds
7 upon which it is issued, including a statement of facts
8 constituting the alleged emergency necessitating action.

9 (c) An emergency order may be issued only with the
10 approval of and upon the signature by not less than three
11 (3) members of the board.

12 (d) The emergency order shall be effective immediately
13 upon issuance and service upon the licensee or resident
14 agent of the licensee. The emergency order may suspend,
15 limit, condition or take other action in relation to the
16 license of one or more individuals in an operation without
17 affecting other individual licensees or the licensed gaming
18 establishment. The emergency order shall remain effective
19 until further order of the board or final disposition of the
20 case.

21 (e) Within five (5) days after issuance of an
22 emergency order, the board shall cause a complaint to be
23 filed and served upon the licensee in accordance with the
24 provisions of subsection (1) to (4) inclusive, of this
25 section.

1 (f) Thereafter, the licensee may have a hearing before
2 the board in accordance with this section, and judicial
3 review of the decision and order of the board thereon in
4 accordance with section 44 of this act.

5 (10) Prior to a hearing before the board, and during a
6 hearing upon reasonable cause shown, the board shall issue
7 subpoenas and subpoenas duces tecum at the request of a
8 party. All witnesses appearing under subpoena, other than
9 parties, officers or employees of the state of Montana or
10 any political subdivision thereof, shall receive fees and
11 mileage in the same amounts and under the same circumstances
12 as provided by law for witnesses in civil actions in
13 district courts. Witnesses entitled to fees or mileage who
14 attend hearings at points so far removed from their
15 residences as to prohibit return thereto from day to day are
16 entitled, in addition to witness fees and in lieu of
17 mileage, to the per diem compensation for subsistence and
18 transportation authorized by law for each day of actual
19 attendance and for each day necessarily occupied in
20 traveling to and from the hearings. Fees, subsistence and
21 transportation expenses shall be paid by the party at whose
22 request the witness is subpoenaed. The board may award as
23 costs the amount of all these expenses to the prevailing
24 party.

25 (11) The testimony of a material witness residing

1 within or without the state of Montana may be taken by
 2 deposition in the manner provided by the Montana rules of
 3 civil procedure.

4 (12) Affidavits may be received in evidence at a
 5 hearing of the board in accordance with the following:

6 (a) The party wishing to use an affidavit shall serve,
 7 not less than ten (10) days prior to the day set for
 8 hearing, upon the opposing party or counsel, either
 9 personally or by certified mail, a copy of the affidavit
 10 which he proposes to introduce in evidence together with a
 11 notice as provided in (c) of this subsection.

12 (b) Unless the opposing party, within seven (7) days
 13 after service, mails or delivers to the proponent a request
 14 to cross-examine affiant, his right to cross-examine affiant
 15 is waived and the affidavit, if introduced in evidence, has
 16 the same effect as if the affiant had testified orally. If
 17 an opportunity to cross-examine an affiant is not afforded
 18 after request is made in accordance with this section, the
 19 affidavit may be introduced in evidence, but has the same
 20 effect as hearsay evidence.

21 (c) The notice referred to in subsection (a) shall be
 22 substantially in the following form:

23 "The accompanying affidavit of (here insert name of
 24 affiant) will be introduced as evidence at the hearing set
 25 for the ____ day of _____, 19___. (Here insert name

1 of affiant) will not be called to testify orally and you
 2 will not be entitled to question him unless you notify the
 3 undersigned that you wish to cross-examine him. To be
 4 effective your request must be mailed or delivered to the
 5 undersigned on or before seven (7) days from the date this
 6 notice and the enclosed affidavit are served upon you.

7 _____
 8 (Party or Counsel)"

9 (13) The following procedures apply at all hearings of
 10 the board other than investigative hearings:

11 (a) At least three (3) members of the board shall be
 12 present at every hearing, and they shall exercise all powers
 13 relating to the conduct of the hearing and shall enforce all
 14 decisions with respect thereto.

15 (b) The proceedings at the hearing shall be reported
 16 either stenographically or by a phonographic reporter.

17 (c) Oral evidence shall be taken only upon oath or
 18 affirmation administered by the board.

19 (d) Every party to a hearing shall have the right:

- 20 (i) to call and examine witnesses;
- 21 (ii) to introduce exhibits relevant to the issues of
- 22 the case, including the transcript of testimony at any
- 23 investigative hearing conducted by or on behalf of the
- 24 board;

25 (iii) to cross-examine opposing witnesses on any

1 matters relevant to the issues of the case, even though the
2 matter was not covered in a direct examination;

3 (iv) to impeach any witness regardless of which party
4 first called him to testify; and

5 (v) to offer rebuttal evidence.

6 (e) If the respondent does not testify in his own
7 behalf, he may be called and examined as if under
8 cross-examination.

9 (f) The hearing need not be conducted according to
10 technical rules relating to evidence and witnesses. Any
11 relevant evidence may be admitted and is sufficient in
12 itself to support a finding if it is that sort of evidence
13 on which responsible persons are accustomed to rely in the
14 conduct of serious affairs, regardless of the existence of a
15 common law or statutory rule which might make improper the
16 admission of this evidence over objection in a civil action.

17 (g) The parties or their counsel may by written
18 stipulation agree that certain specified evidence may be
19 admitted even though the evidence might otherwise be subject
20 to objection.

21 (14) The board may take official notice of any
22 generally accepted information or technical or scientific
23 matter within the field of gaming, and of any other fact
24 which may be judicially noticed by the courts of this state.
25 The parties shall be informed of any information, matters or

1 facts so noticed, and shall be given a reasonable
2 opportunity on request to refute that information, matters
3 or facts by evidence or by written or oral presentation of
4 authorities, the manner of refutation to be determined by
5 the board.

6 (15) The board may permit the filing of amended or
7 supplemental pleadings and shall notify all parties thereof,
8 and provide a reasonable opportunity for objections thereto.

9 (16) If a person in proceedings before the board
10 disobeys or resists a lawful order or refuses to respond to
11 a subpoena, or refuses to take the oath or affirmation as a
12 witness or thereafter refuses to be examined, or is guilty
13 of misconduct during the hearing or so near the place of
14 hearing as to obstruct the proceedings, the board may
15 certify the facts to the district court in and for the
16 county where the proceedings are held. The court shall
17 thereupon issue an order directing the person to appear
18 before the court and show cause why he should not be
19 punished as for contempt. The court order and a copy of the
20 statement of the board shall be served on the person cited
21 to appear. Thereafter the court has jurisdiction of the
22 matter; and the same proceedings shall be had, the same
23 penalties may be imposed and the person charged may purge
24 himself of the contempt in the same way as in the case of a
25 person who has committed a contempt in the trial of a civil

1 action before a district court.

2 (17) Failure of a respondent to file a notice of
3 defense or to request or appear at the hearing is an
4 admission of all matters and facts contained in the
5 complaint filed with respect to that respondent. In these
6 cases the board may take action based upon admissions or
7 upon other evidence, including affidavits, and without
8 further notices to respondent. In these cases the board
9 shall prepare and file a record containing the evidence upon
10 which its action was based.

11 (18) After the hearing of a contested matter, the board
12 shall render a written decision on the merits which shall
13 contain findings of fact, a determination of the issues
14 presented and the penalty to be imposed, if any; and shall
15 make and enter its written order in conformity to the
16 decision. No member of the board who did not hear the
17 evidence may vote on the decision. The affirmative votes of
18 a majority of the whole board are required to impose any
19 penalty. Copies of the decision and order shall be served
20 on the parties personally or sent to them by certified mail.
21 The decision shall become and remain effective upon service,
22 unless the board shall otherwise order.

23 (19) The board may, upon motion therefor made ten (10)
24 days after service of a decision and order, order a
25 rehearing before the board upon terms and conditions it

1 considers just and proper if a petition for judicial review
2 of the decision and order has not been filed. A motion may
3 not be granted except upon a showing that there is
4 additional evidence which is material and necessary and
5 reasonably calculated to change the decision of the board
6 and that sufficient reason existed for failure to present
7 the evidence at the hearing of the board. The motion shall
8 be supported by an affidavit of the moving party or his
9 counsel showing with particularity and materiality the
10 necessity of the additional evidence and the reason why it
11 was not introduced at the hearing. Upon rehearing, rebuttal
12 evidence to the additional evidence shall be permitted.
13 After rehearing, the board may modify its decision and order
14 as the additional evidence may warrant.

15 Section 44. Judicial review. (1) Any person
16 aggrieved by a final decision or order of the board made
17 after hearing or rehearing by the board under section 43 of
18 this act and whether or not a petition for rehearing was
19 filed, may obtain judicial review in the district court of
20 the county in which the petitioner resides or has his or its
21 principal place of business.

22 (2) Judicial review is instituted by filing a petition
23 within twenty (20) days after the effective date of the
24 final decision or order. A petition may not be filed while
25 a petition for rehearing or a rehearing is pending before

1 the board. The petition shall set forth the order or
 2 decision appealed from and the grounds or reasons why
 3 petitioner contends a reversal or modification should be
 4 ordered.

5 (3) Copies of the petition shall be served upon the
 6 board and all other parties of record, or their counsel of
 7 record, either personally or by certified mail.

8 (4) The court, upon a proper showing, may permit other
 9 interested persons to intervene as parties to the appeal or
 10 as friends of the court.

11 (5) The filing of the petition shall not stay
 12 enforcement of the decision or order of the board, but the
 13 board itself may grant a stay upon terms and conditions it
 14 considers proper.

15 (6) Upon written request of petitioner and upon
 16 payment of reasonable costs and fees the board prescribes,
 17 the complete record on review, or parts designated by the
 18 petitioner, shall be prepared by the board.

19 (7) The complete record on review shall include copies
 20 of:

- 21 (a) all pleadings in the case;
- 22 (b) all notices and interim orders issued by the board
- 23 in connection with the case;
- 24 (c) all stipulations;
- 25 (d) the decision and order appealed from;

1 (e) a transcript of all testimony, evidence and
 2 proceedings at the hearing;

3 (f) the exhibits admitted or rejected; and

4 (g) any other papers in the case.

5 The original of any document may be used in lieu of a
 6 copy thereof. The record on review may be shortened by
 7 stipulation of all parties to the review proceedings.

8 (8) The record on review shall be filed with the
 9 reviewing court within thirty (30) days after service of the
 10 petition for review, but the court may allow the board
 11 additional time to prepare and transmit the record on
 12 review.

13 (9) The reviewing court, upon motion therefor, may
 14 order that additional evidence in the case be taken by the
 15 board upon terms and conditions the court considers just and
 16 proper. This motion may not be granted except upon showing
 17 that the additional evidence is material and necessary and
 18 that sufficient reason existed for failure to present the
 19 evidence at the hearing of the board. The motion shall be
 20 supported by an affidavit of the moving party or his counsel
 21 showing with particularity the materiality and necessity of
 22 the additional evidence and the reason why it was not
 23 introduced in the administrative hearing. Rebuttal evidence
 24 to the additional evidence shall be permitted. In cases in
 25 which additional evidence is presented to the board, the

1 board may modify its decisions and orders as the additional
 2 evidence may warrant and shall file with the reviewing court
 3 a transcript of the additional evidence together with any
 4 modifications of the decision and order, all of which shall
 5 become a part of the record on review.

6 (10) The review shall be conducted by the court sitting
 7 without a jury, and is not a trial de novo but is confined
 8 to the record on review.

9 (11) The reviewing court may affirm the decision and
 10 order of the board, or it may remand the case for further
 11 proceedings or reverse the decision if the substantial
 12 rights of the petitioner have been prejudiced because the
 13 decision is:

- 14 (a) in violation of constitutional provisions; or
- 15 (b) in excess of the statutory authority or
- 16 jurisdiction of the board; or
- 17 (c) made upon unlawful procedure; or
- 18 (d) unsupported by any evidence; or
- 19 (e) arbitrary or capricious or otherwise not in
- 20 accordance with law.

21 (12) Any party aggrieved by the final decision in the
 22 district court after a review of the board decision and
 23 order may appeal to the supreme court in the manner and
 24 within the time provided by law for appeals in civil cases.
 25 The supreme court shall follow the same procedure thereafter

1 as in appeals in civil actions, and may affirm, reverse, or
 2 modify the decision as the record and law warrant.

3 (13) Judicial review by the district and supreme courts
 4 afforded in this act is the exclusive method of review of
 5 board actions, decisions and orders, and precludes the use
 6 of any of the extraordinary common law writs or other
 7 equitable proceedings.

8 SECTION 45. GAMING EMPLOYEES AND RELATED PERSONS MAY
 9 NOT PARTICIPATE — PENALTY. (1) NO GAMING EMPLOYEE, OR
 10 PERSON RELATED BY MARRIAGE OR BLOOD TO THE OWNER OR OPERATOR
 11 OF A LICENSED GAMING ESTABLISHMENT, MAY PARTICIPATE IN ANY
 12 DEVICE OFFERED FOR PLAY BY THE RESPECTIVE OWNER OR OPERATOR.

13 (2) A PERSON WHO IS CONVICTED OF VIOLATION OF THIS
 14 SUBSECTION (1) SHALL BE FINED AT LEAST FIVE HUNDRED DOLLARS
 15 (\$500) BUT NOT MORE THAN ONE THOUSAND DOLLARS (\$1,000), OR
 16 IMPRISONED IN THE COUNTY JAIL FOR NOT MORE THAN SIX (6)
 17 MONTHS, OR BOTH.

18 (3) THE OWNER OR OPERATOR OF A LICENSED GAMING
 19 ESTABLISHMENT WHO PERMITS A GAMING EMPLOYEE, OR A PERSON
 20 RELATED TO THE OWNER OR OPERATOR BY BLOOD OR MARRIAGE, TO
 21 PARTICIPATE IN PLAY OF A GAMING DEVICE OR GAME UNDER HIS
 22 OPERATION IS GUILTY OF A MISDEMEANOR. UPON CONVICTION UNDER
 23 THIS SUBSECTION,

24 (A) THE LICENSE OF THE OFFENDER IS REVOKED FOR A
 25 PERIOD NOT LESS THAN TWO (2) YEARS, AND

1 (E) THE OFFENDER SHALL PAY A FINE NOT LESS THAN ONE
 2 THOUSAND DOLLARS (\$1,000) OR BE IMPRISONED IN THE COUNTY
 3 JAIL FOR A TERM OF ONE (1) YEAR, OR BOTH.

4 Section 46. Violation — penalty. (1) It shall be
 5 unlawful for any person, firm, association or corporation,
 6 either as owner, lessee or employee, whether for hire or
 7 not, in the state of Montana, to deal, operate, carry on,
 8 conduct, maintain or expose for play: any pull tabs, jar
 9 tickets, or any game of faro, monte, roulette, keno,
 10 fan-tan, baccarat, twenty-one, blackjack, seven-and-a-half,
 11 big injun, klondike, craps, or any game not authorized
 12 herein, or any mechanical or electronic coin-operated
 13 machine containing three (3) or more rotating wheels, which
 14 is commonly called a slot machine.

15 (2) Any person, firm, association or corporation
 16 violating any of the provisions of this section is guilty of
 17 a felony, punishable upon conviction by imprisonment in the
 18 state prison for not less than five (5) years and not more
 19 than ten (10) years, and no court may suspend or defer
 20 sentence or place a person convicted hereunder on probation.

21 Section 47. Violation — penalty. Every person who
 22 knowingly permits any of the games or slot machines
 23 mentioned in section 45 of this act to be played, conducted,
 24 dealt or maintained in any house, building or part thereof
 25 owned or rented by such person, or who knowingly permits any

1 of the games or coin-operated machines permitted to be
 2 licensed by this act to be played, conducted, dealt or
 3 maintained without a license in any house, building or part
 4 thereof owned by such person, is guilty of a felony,
 5 punishable upon conviction by imprisonment in the state
 6 prison for not less than five (5) years and not more than
 7 ten (10) years, and no court may suspend or defer sentence
 8 or place a person convicted hereunder on probation.

9 Section 48. Prohibition — cheating — penalty. (1)
 10 It shall be unlawful for any person playing any licensed
 11 gambling game:

12 (a) to use bogus or counterfeit chips, or to
 13 substitute and use in any such game any cards that have been
 14 marked or tampered with; or

15 (b) to employ or have on his person any cheating
 16 device to facilitate cheating in any game.

17 (2) It is unlawful for any person, in playing or using
 18 any coin-operated machine, lawful vending machine, coin box,
 19 telephone or other receptacle designed to receive or be
 20 operated by lawful coin of the United States of America in
 21 furtherance of or in connection with the sale, use or
 22 enjoyment of property or service:

23 (a) to use other than lawful coin, legal tender of the
 24 United States of America, not of the same denomination as
 25 the coin intended to be used in such device, except that in

1 the playing of any coin-operated machine, it is lawful for a
 2 person to use tokens or similar objects therein which are
 3 approved by the state gaming control board; or

4 (b) to use or have on his person a cheating or
 5 thieving device to facilitate removing from a coin-operated
 6 machine, lawful vending machine, coin box, telephone or
 7 other receptacle a part of the contents thereof.

8 (3) A violation of the provisions of this section is a
 9 misdemeanor, punishable upon conviction by a fine OF NOT
 10 LESS THAN FIVE HUNDRED DOLLARS (\$500), BUT not exceeding one
 11 thousand dollars (\$1,000) or by imprisonment in the county
 12 jail for a maximum period of ninety (90) days, or both.

13 Section 49. Prohibition — altered devices — penalty.

14 (1) It is unlawful:

15 (a) to conduct, carry on, operate, deal or allow to be
 16 conducted, carried on, operated or dealt any cheating or
 17 thieving game or device; or

18 (b) to deal, conduct, carry on, operate or expose for
 19 play any game or games played with cards or any mechanical
 20 device, or any combination of games or devices, which have
 21 in any manner been marked or tampered with, or placed in a
 22 condition, or operated in a manner, the result of which:

23 (i) tends to deceive the public; or

24 (ii) tends to alter the normal random selection of
 25 criteria which determine the result of the game.

1 (2) The use of marked cards, plugged or tampered-with
 2 machines or devices, counterfeit punchboards on which the
 3 tax imposed by this act has not been paid, or punchboards
 4 sold with an overlay or accompanying chart revealing to the
 5 gaming licensee the locations of winning symbols or numbers,
 6 is the practice of deception upon the public and is
 7 expressly declared unlawful.

8 (3) A violation of the provisions of this section is a
 9 felony, punishable upon conviction by imprisonment in the
 10 state prison for not less than five (5) years and not more
 11 than ten (10) years, and no court may suspend or deter
 12 sentence or place a person convicted hereunder on probation.

13 Section 50. Prohibition — unlawful sale or
 14 manufacture — penalty. (1) It is unlawful to manufacture
 15 or sell:

16 (a) any cheating or thieving game or device;

17 (b) any game or games played with cards or any
 18 mechanical device, or any combination of these games or
 19 devices, which may have in any manner been marked or
 20 tampered with to deceive the public;

21 (c) any counterfeit punchboard on which the tax
 22 imposed by this act has not been paid as provided herein;

23 (d) any punchboard accompanied by an overlay or chart
 24 or other method of informing a gaming licensee of the
 25 locations of winning symbols or numbers.

1 (2) Any violation of the provisions of this section is
 2 a felony, punishable upon conviction by imprisonment in the
 3 state prison for not less than five (5) years and not more
 4 than ten (10) years, and no court may suspend or defer
 5 sentence or place a person convicted hereunder on probation.

6 Section 51. Public notice — display. Each gaming
 7 licensee licensed under sections 30 and 31 of this act shall
 8 prominently display on all exterior entrance doors to his
 9 premises where gaming of any kind is conducted or operated
 10 the following notice to the public:

11 "PUBLIC NOTICE

12 THIS ESTABLISHMENT IS LICENSED TO CONDUCT GAMBLING.

13 WARNING: MINORS ARE PROHIBITED FROM GAMBLING"

14 Each licensee shall purchase notices from the board at
 15 its actual cost of preparing and furnishing these, and it is
 16 a specific condition precedent to renewal of license that
 17 notices are legibly maintained and displayed at all times.

18 The board shall design, prepare and make these notices
 19 available to gaming licensees in decal form for exterior
 20 entrance doors and in long-wearing enamel metal form for
 21 interior display. These notices shall be of size, print and
 22 color to be easily read and to attract the attention of the
 23 public.

24 Section 52. Election — to permit gambling in a
 25 county. Upon application by petition, signed by ~~one-third~~

1 ~~(1/3)~~ FIFTEEN PERCENT (15%) of the voters who are qualified
 2 to vote for members of the legislature in any county in the
 3 state, the board of county commissioners shall order an
 4 election to be held at the places of holding elections for
 5 county officers, to take place within forty (40) days after
 6 the reception of the petition, to determine whether or not
 7 gambling as herein provided for shall be permitted within
 8 the limits of the county. No election under this section
 9 may take place in any month in which the general elections
 10 are held. The board of county commissioners shall determine
 11 the sufficiency of the petitions presented from an
 12 examination of the roll of qualified electors within the
 13 county.

14 Section 53. Election — notice. The notice of
 15 election shall be published once a week for four (4) weeks
 16 in those newspapers of the county where the election is to
 17 be held as the board of county commissioners considers
 18 necessary.

19 Section 54. Election — county clerk — duties. The
 20 county clerk shall furnish the ballots to be used at an
 21 election, as provided in the general election laws, these
 22 ballots shall contain the following words: "Gambling, yes";
 23 "Gambling, no." And the elector in order to vote must mark
 24 an "X" opposite one (1) of the answers.

25 Section 55. Election — polling places. The polling

1 places must be established, the judges and other officers to
 2 conduct the election must be designated, and the election
 3 must be held, canvassed and returned in all respects in
 4 conformity to the general elections laws of the state of
 5 Montana.

6 Section 56. Election results — effect. If a majority
 7 of the votes cast are against gambling, the board of county
 8 commissioners must publish the result once a week for four
 9 (4) weeks in the newspapers in which the notices of election
 10 were published, and from the date of the election no further
 11 gaming licenses in the county may be issued by the state
 12 gaming control board and after the publication of notice
 13 proclaiming the result of the election is against gambling,
 14 all licenses then existing shall be canceled by the state
 15 gaming control board, and thereafter it shall be unlawful to
 16 gamble in that county.

17 Section 57. Election — limits. No gambling election
 18 may be held in the same county more than once in any two (2)
 19 years.

20 Section 58. Election — challenge. A gambling
 21 election held under the provisions of this act may be
 22 contested in the same manner as other elections under the
 23 laws of this state.

24 Section 59. Fees — deposit. Except as provided in
 25 sections 34 and 59 of this act, all fees, charges, taxes,

1 penalties, fines and revenues collected by or under
 2 authority of the gaming control board shall be paid over to
 3 the state treasurer on or before the tenth day of each and
 4 every month and the state treasurer shall deposit these
 5 funds to the credit of the state general fund.

6 Section 60. Local share of funds — use. ~~Twenty-five~~
 7 ~~percent (25%)~~ FIFTY PERCENT (50%) of the revenues collected
 8 by or under authority of the gaming control board for basic
 9 gaming licenses and for annual games licenses, under section
 10 31 of this act, shall be deposited by the state treasurer to
 11 the credit of the cities and counties gaming license account
 12 in the earmarked revenue fund. The state treasurer shall
 13 annually, in the month of August, distribute this money to
 14 the incorporated cities and towns and to the counties in the
 15 direct proportion that the population of each city, town,
 16 and county bears to the total population of all incorporated
 17 cities, towns, and counties as shown in the latest decennial
 18 federal census. If any county elects to make gambling
 19 within its boundaries illegal, as provided in sections 51
 20 through 57 of this act, it and all of the incorporated
 21 cities and towns within its boundaries shall forthwith cease
 22 to receive any funds under this section. ~~All funds~~ FUNDS
 23 received by counties, cities, and towns under this section
 24 shall be expended EQUALLY for ALLEVIATION OF LOCAL PROPERTY
 25 TAXES AND law enforcement purposes.

1 Section 61. Licensing is exclusive function of state.
2 The licensing and taxing of gambling as permitted by this
3 act are declared the exclusive function of the state;
4 provided, however, that incorporated cities and towns may
5 require the holders of gaming licenses to secure the
6 business licenses required of mercantile establishments
7 within their jurisdictions.

8 Section 62. Severability. If a part of this act is
9 invalid, all valid parts that are severable from the invalid
10 part remain in effect. If a part of this act is invalid in
11 one or more of its applications, the part remains in effect
12 in all valid applications that are severable from the
13 invalid applications.

14 Section 63. Repealer. All acts and parts of acts in
15 conflict with this act are repealed.

-End-