

SENATE BILL NO. 131

INTRODUCED BY Trudy Devine Gasbender

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT, LICENSE,
5 REGULATE, AND CONTROL GAMBLING GAMES AND GAMING DEVICES;
6 AUTHORIZING THE DEPARTMENT OF REVENUE TO ADMINISTER THE
7 GAMBLING LAWS; SPECIFYING ITS POWERS AND DUTIES; PROVIDING
8 PENALTIES FOR VIOLATION OF THE GAMBLING LAWS; AND REPEALING
9 SECTIONS 62-707, 62-708, 62-719 AND 62-720, R.C.M. 1947."

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

12 Section 1. Short title. This act may be cited as the
13 "Montana Gaming Control Act of 1975."

14 Section 2. Definitions. As used in this act unless
15 the context otherwise indicates:

16 (1) "Applicant" means any person who has applied for
17 the issuance of a license under the provisions of any act of
18 this state authorizing the licensing of a gambling game, or
19 any person or corporation which has applied for the issuance
20 of a manufacturer's license or a distributor's license under
21 this or any other gambling law of this state.

22 (2) "Application" means a request for the issuance of
23 a license, manufacturer's license or distributor's license
24 made under this act.

25 (3) "City" means any incorporated city or town of the

1 state of Montana.
2 (4) "County" means any political subdivision of the
3 state designated by state law as a county.
4 (5) "Department" means the department of revenue.
5 (6) "Establishment" means any premises wherein or
6 whereon any gambling is done.
7 (7) "Gambling game" means any banking or percentage
8 game played with cards, dice, or any mechanical or
9 electrical device or machine for money, property, checks,
10 credit, or any representative of value.
11 (8) "Authorized gambling game" means any gambling game
12 which is specifically authorized by statute in this state.
13 (9) "Gambling laws" means any or all of the laws
14 passed by this state concerning the licensing, regulating,
15 or limiting of gambling games.
16 (10) "Gaming device" means any mechanical or electrical
17 contrivance or machine used in connection with any gambling
18 game.
19 (11) "Hearing examiner" means a person authorized by
20 the department of revenue to conduct investigative hearings.
21 (12) "License" means any license issued by the
22 department of revenue under this act or under an act
23 regulating a particular gambling game authorizing the person
24 named therein to conduct or to permit to be conducted in his
25 establishment the particular authorized gambling game

1 specified in the license. Licenses to conduct gambling
2 games may be issued only to persons, as defined by this act.

3 (13) "Licensee" means any person to whom a valid
4 license to conduct gambling games has been issued.

5 (14) "Licensed distributor" means any person or
6 corporation to whom a valid distributor's license has been
7 issued.

8 (15) "Licensed manufacturer" means any person or
9 corporation to whom a valid manufacturer's license has been
10 issued.

11 (16) "Distributor's license" means a license to
12 distribute any gaming device specifically authorized by
13 statute in this state for use in authorized gambling games
14 in this state.

15 (17) "Manufacturer's license" means a license to
16 manufacture or rebuild any gaming device specifically
17 authorized by statute in this state for use in authorized
18 gambling games in this state.

19 (18) "License fees" means any money required by law to
20 be paid to obtain or renew a license.

21 (19) "Operation" means the conduct of a gambling game.

22 (20) "Party" means the department of revenue or any
23 licensee, person or corporation appearing of record in any
24 proceedings before the department or hearing examiner, and
25 any licensee, person or corporation appearing of record in

1 any proceedings for judicial review of any action, decision
2 or order of the department.

3 (21) "Year" means a period of twelve (12) consecutive
4 months commencing on the first day of July in any year.

5 (22) "Person" means any natural person or partnership
6 composed of natural persons.

7 (23) "Respondent" means any licensee, person, or
8 corporation against whom a complaint has been filed with the
9 department.

10 Section 3. Department of revenue to administer. The
11 department of revenue shall administer this act and the
12 gambling laws of this state.

13 Section 4. Department to report to governor and
14 legislature. (1) The department of revenue shall make an
15 annual report to the governor and the legislature
16 containing:

17 (a) an accounting of the revenues derived by the state
18 from licensing under this act;

19 (b) the number and types of licenses issued under this
20 or any gambling statute of this state;

21 (c) the total gross income reported by all licensees
22 from the conduct of gambling games and by all licensed
23 manufacturers and distributors, together with measures of
24 the range of gross income;

25 (d) a record of all hearings and disciplinary actions

1 taken by the department;

2 (e) the expense to the department of administering the
3 gambling laws including therein a breakdown of the various
4 sources of expense; and

5 (f) those recommendations for change in the gambling
6 laws the department considers necessary or desirable.

7 (2) The department of revenue shall report immediately
8 to the governor and the legislature any matter which
9 requires immediate change in the laws of this state in order
10 to prevent abuses and evasions of the gambling laws or rules
11 promulgated thereunder or to rectify undesirable conditions
12 in connection with the administration or operation of the
13 gambling laws.

14 Section 5. Department to maintain files. (1) The
15 department shall keep and maintain a file of all
16 applications for gaming licenses, manufacturer's licenses or
17 distributor's licenses made under this act and any other
18 gambling law together with a record of all actions taken
19 with respect to the applications. The file and record shall
20 be open to public inspection.

21 (2) The department may maintain other files and
22 records as it considers desirable.

23 Section 6. Public policy to protect health and
24 welfare--revocability of license. (1) It is hereby
25 declared to be the policy of this state that all

1 establishments where gambling games are conducted or
2 operated or where gaming devices are operated in the state
3 of Montana shall be licensed and regulated to better protect
4 the public health, safety, good order, and general welfare
5 of the inhabitants of the state of Montana.

6 (2) Any license issued under this act is a revocable
7 privilege, and no licensee acquires any vested rights in the
8 license.

9 Section 7. Authority of department to determine
10 suitability of applicants--inspect licensed premises and
11 licensees. (1) The department of revenue is hereby charged
12 with administering the provisions of this act and provisions
13 of any other gambling laws with respect to state gaming
14 licenses, manufacturer's licenses and distributor's
15 licenses, for the protection of the public and in the public
16 interest in accordance with the policy of this state.

17 (2) The department shall investigate the
18 qualifications of each applicant for a gaming license,
19 manufacturer's license or distributor's license under this
20 act before any license is issued and shall continue to
21 observe the conduct of all licensees, licensed manufacturers
22 and licensed distributors to the end that no license of any
23 kind may be issued to or held by unqualified or disqualified
24 persons or unsuitable persons or persons whose operations
25 are conducted in an unsuitable manner or for unsuitable or

1 prohibited places or locations, nor may any manufacturer's
 2 or distributor's license be held by an unsuitable,
 3 unqualified or disqualified person or corporation. The
 4 department, for any cause considered reasonable by the
 5 department, may deny any application for a gaming license,
 6 manufacturer's license or distributor's license or limit,
 7 condition, or restrict such license, or suspend or revoke
 8 any license for any violation of this act or for violation
 9 of any gambling law or for violation of the rules
 10 established by the department.

11 (3) The department and its agents, inspectors and
 12 employees may:

13 (a) inspect and examine all premises wherein gambling
 14 games are conducted or gaming devices are manufactured or
 15 held for distribution;

16 (b) inspect all equipment and supplies in, upon or
 17 about such premises;

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

21 (d) demand access to and inspect, examine and audit
 22 all papers, books and records of applicants, licensees,
 23 licensed manufacturers, and licensed distributors including
 24 verified accounts of gross income produced by the use of the
 25 license, which accounts may be required by the department,

1 and all other matters affecting the enforcement of the
 2 policy of or any of the provisions of this act.

3 Section 8. Department to make rules. (1) The
 4 department shall adopt, amend, or repeal rules consistent
 5 with the policy, objects, and purposes of this act as it
 6 considers necessary or desirable in the public interest to
 7 carry out the policy and provisions of the gambling laws of
 8 this state.

9 (2) The rules may, without limiting the general powers
 10 conferred:

11 (a) prescribe the method and form of application which
 12 an applicant for a gaming license, manufacturer's license,
 13 or distributor's license shall follow and complete prior to
 14 consideration of his application by the department;

15 (b) prescribe the information to be furnished by any
 16 applicant, licensee, or licensed manufacturer or distributor
 17 as may be requested by the department;

18 (c) require fingerprinting of an applicant, licensee,
 19 licensed manufacturer or distributor, or any stockholder or
 20 employee of any applicant or licensee, or other method of
 21 identification;

22 (d) prescribe, consistent with the Montana
 23 Administrative Procedure Act, the manner and procedure of
 24 all hearings conducted by the department or any hearing
 25 examiner of the department, including special rules of

1 evidence applicable thereto and notices thereof;

2 (e) require any applicant for an annual gaming
3 license, manufacturer's license, or distributor's license to
4 pay all or any part of the actual and necessary cost of
5 investigation of such applicant. The department may
6 establish a schedule of minimum investigatory fees;

7 (f) prescribe the manner and method of collection and
8 payment of fees and issuance of licenses;

9 (g) define and limit the area, games and devices
10 permitted and the authorized method of operation of those
11 games and devices;

12 (h) prescribe when the nonpayment of a gambling debt
13 by a licensee is grounds for revocation or suspension of his
14 license.

15 Section 9. Department to investigate violators
16 --procedure for hearing on violations--appeal. (1) The
17 department shall investigate any apparent violation of this
18 act or any rule which comes to its attention and, when
19 disciplinary or other action is taken against a licensee,
20 licensed manufacturer, or licensed distributor, it shall
21 conduct the necessary investigative hearings.

22 (2) If, after the investigation, the department is
23 satisfied that a gaming license, manufacturer's license, or
24 distributor's license should be limited, conditioned,
suspended or revoked, it shall issue an order to show cause

1 setting forth;

2 (a) the name of the licensee or licensed manufacturer
3 or licensed distributor;

4 (b) the nature of the alleged violation; and

5 (c) the time and place of the hearing.

6 The licensee, licensed manufacturer, or licensed
7 distributor shall appear at that time and place. He may
8 bring his attorney and witnesses and produce testimony for
9 and on his behalf and he may cross-examine any and all
10 witnesses appearing for and on behalf of the department.
11 The attorney for the department may cross-examine the
12 witnesses produced by the licensee, licensed manufacturer or
13 licensed distributor. The hearing shall conform in all
14 respects with the procedures of the Montana Administrative
15 Procedure Act for contested cases except where a specific
16 provision of this act supplants those procedures. A record
17 or transcript of all testimony adduced at the hearing shall
18 be made. The department shall, at the conclusion of all
19 testimony, make its findings and order, a copy of which
20 shall be sent to the licensee, licensed manufacturer, or
21 licensed distributor by certified mail. The licensee,
22 licensed manufacturer or licensed distributor has the right
23 to appeal the order of the department to the district court
24 according to the procedures provided for appeal from the
25 orders of administrative agencies in the Montana

1 Administrative Procedure Act. The appeal shall be heard on
2 the record made at the hearing before the department and no
3 other testimony shall be introduced unless the court of
4 judge shall, upon good cause shown, allow the additional
5 testimony.

6 (3) The order of the department made under this
7 section shall take effect immediately and shall remain
8 effective until reversed or modified upon appeal, except
9 the department may stay its order pending appeal upon the
10 terms and conditions it considers proper.

11 (4) The time limits and provisions for a transcript of
12 the record of the proceeding, as set forth in section
13 82-4216 of the Montana Administrative Procedure Act shall
14 apply to appeals from hearings held under this act.

15 Section 10. Only licensees to conduct gambling games.

16 (1) It is unlawful for any person, either as owner, lessee,
17 or employee, whether for hire or not, either solely or in
18 conjunction with others, without having first procured and
19 thereafter maintained in full force and effect, all federal
20 and state licenses required by statute:

21 (a) to deal, operate, carry on, conduct, maintain or
22 expose for play in the state of Montana, any gambling game
23 or gaming device; or

24 (b) to receive, directly or indirectly, any
25 compensation or reward or any percentage or share of the

1 money or property played for keeping, running, carrying on,
2 or permitting to be carried on any gambling game.

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 or gaming device for any interest or any
6 percentage or share of the money or property played, under
7 guise of any agreement whatever.

8 (3) It is unlawful for any person either as owner,
9 lessee, or employee, whether for hire or not, either solely
10 or in conjunction with others to provide or maintain any
11 information service, the primary purpose of which is to aid
12 the placing or making of wagers on events of any kind.

13 (4) Any person who shall knowingly permit any gambling
14 game, to be conducted, operated, dealt, or carried on in any
15 house or building or other premises owned by him, in whole
16 or in part, except by a person who is licensed under this
17 act, or his employee, is guilty of a misdemeanor.

18 Section 11. Qualifications of licensee. A person or,
19 if the applicant is a partnership, each partner must have
20 the following qualifications to obtain a state license:

21 (1) be a resident of the state of Montana for one (1)
22 year prior to application;

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

24 (3) not be under state supervision for any offense
25 against the state or for any crime which if committed in

1 Montana, would be a felony;

2 (4) have good moral character and reputation.

3 Section 12. Contents of applications for license.
 4 Application for a state license to conduct an authorized
 5 gambling game shall be made to the department of revenue on
 6 forms furnished by it and in accordance with the regulations
 7 of the department. The applications shall include:

8 (a) the name of the proposed licensee;

9 (b) the location and his place of business;

10 (c) the number and kinds of gambling games to be
 11 conducted or gaming devices to be operated;

12 (d) the names of all persons, directly or indirectly,
 13 interested in the business and the nature of such interest;
 14 and

15 (e) any other information the department may require
 16 in order to discharge its duties hereunder.

17 Section 13. License fees. (1) The fee for a license
 18 is the fee specified in the act authorizing and regulating
 19 the particular gambling game.

20 (2) Any person or corporation who manufactures,
 21 rebuilds, or distributes within or without the state of
 22 Montana for sale, lease, or rent any gaming device and who
 23 is not subject to a license and fee under the statute
 24 authorizing the gaming device, shall obtain an annual
 25 license for which the fee is five hundred dollars (\$500).

1 If a person or corporation both manufactures and
 2 distributes, only one license fee is required.

3 (3) If at the time an annual license is issued, the
 4 period remaining until the statutory renewal date is less
 5 than twelve (12) months, the fee charged shall be a pro rata
 6 share of the license fee established in the statute
 7 prescribing the license fee.

8 Section 14. Licensed manufacturers--qualifications--
 9 penalty for unlicensed manufacturing. (1) It is unlawful
 10 for any person or corporation, either as owner, lessee, or
 11 employee, whether for hire or not, to operate, carry on,
 12 conduct, or maintain in the state of Montana any form of
 13 manufacturing, rebuilding, selling, or distributing any
 14 gaming device without having first procured a license for
 15 manufacturing, rebuilding, selling, or distributing as
 16 provided in this act.

17 (2) Violation of the provisions of this section is a
 18 felony.

19 (3) Any person or corporation whom the department
 20 determines to be a suitable person or corporation to receive
 21 a manufacturer's or distributor's license under the
 22 provisions of this act, having due consideration for the
 23 proper protection of the public health, safety, good order,
 24 and general welfare of the inhabitants of the state of
 25 Montana, may be issued a manufacturer's and rebuilder's or a

1 distributor's license. The burden of proving his
2 qualifications to receive or hold any manufacturer's or
3 distributor's license under this act shall rest at all times
4 with the applicant or licensed manufacturer or distributor.

5 Section 15. Licensed manufacturers--procedure for
6 obtaining license. (1) A person or corporation desiring to
7 manufacture or rebuild any gaming device under this act,
8 shall first apply to the department for a license and tender
9 with the application the license fee prescribed, together
10 with so much of the anticipated fees and costs of
11 investigation of the person or corporation as may be
12 required by the department.

13 (2) Upon proof that the person or corporation is
14 qualified in accordance with this act and the regulations of
15 the department, the department shall issue a manufacturer's
16 license to the person or corporation, which license shall be
17 at all times prominently displayed in the place of business
18 of such licensed manufacturer. Thereafter the licensed
19 manufacturer may manufacture or rebuild gaming devices and
20 sell the same within this state to licensees or licensed
21 distributors under this act or for use outside this state in
22 conformity with applicable laws of the United States.

23 (3) If the department finds that the person or
24 corporation is not qualified, no manufacturer's license may
25 be granted and the license fee tendered shall be returned,

1 together with that portion, if any of the anticipated fees
2 and costs of investigation which were not used in the
3 investigation of the person or corporation.

4 Section 16. Licensed distributors--qualifications
5 --procedure for obtaining license. (1) Any person or
6 corporation who desires to sell, lease, and distribute any
7 gaming device under this act, shall first apply to the
8 department for a distributor's license and tender with his
9 application the license fee prescribed, together with the
10 anticipated fees and costs of investigation of the person
11 or corporation, as required by the department.

12 (2) To qualify for a distributor's license a person
13 shall possess all of the qualifications required of the
14 holder of a gaming license and shall have been a resident of
15 Montana for a period of one (1) year immediately prior to
16 making application.

17 (3) If the applicant is a Montana corporation:

18 (a) the corporation shall have been organized for a
19 period of one (1) year immediately prior to making
20 application;

21 (b) the owners of a majority of the corporation's
22 stock must also be residents of Montana and must have been
23 residents of Montana at least one (1) year prior to making
24 application; and

25 (c) the individual majority stockholders shall possess

1 all of the qualifications required of a holder of a gaming
2 license. An individual or partnership which has been
3 licensed as a distributor may, upon incorporation in
4 accordance with the laws of the state of Montana, transfer
5 the distributor's license to the corporation if a majority
6 of the capital stock thereof is held by the individual or
7 the members of the partnership.

8 (4) Upon proof, that the person or corporation is
9 qualified in accordance with this act and the departmental
10 rules, the department shall issue a distributor's license to
11 the person or corporation, which license shall be at all
12 times prominently displayed in the place of business of the
13 licensed distributor. Thereafter the licensed distributor
14 may sell, lease, and distribute gaming devices to other
15 licensed distributors and gaming licensees and repair and
16 maintain such gaming devices.

17 (5) If the department finds that a person or
18 corporation is not qualified, a distributor's license shall
19 not be granted and the license fee tendered shall be
20 returned, together with that portion, if any, of the
21 anticipated fees and cost of investigation which were not
22 used in the investigation of the person or corporation.

23 Section 17. Licensed distributors to receive gaming
24 devices from licensed manufacturers--procedures--records--
25 penalties. (1) In order to control and regulate the

1 traffic in gaming devices and thereby protect the public
2 health, safety, good order and general welfare of the
3 inhabitants of the state of Montana, all gaming devices
4 manufactured or rebuilt within or outside the state of
5 Montana, shall be consigned and shipped by a licensed
6 manufacturer to a distributor licensed under this act and
7 unloaded by the licensed distributor into his warehouse in
8 Montana. The distributor shall keep records at his
9 warehouse of all gaming devices which he receives, including
10 the names and kinds received, serial numbers or other
11 identifying characters or symbols where applicable, and the
12 names and addresses of the licensed distributors and gaming
13 licensees to whom the gaming devices are sold or leased.
14 The records shall be available for inspection at all times
15 by any member or representative of the department.

16 (2) Every distributor licensed under this act shall,
17 on or before the fifteenth day of each January, April, July,
18 and October make an exact return to the department of all
19 gaming devices which he received and sold or leased during
20 the previous calendar quarter, the serial numbers or other
21 identifying characters or symbols where applicable, and the
22 names and addresses of the licensed purchasers or lessees,
23 in the manner and on such form as the department may
24 prescribe. The department at any time may examine the
25 distributor's books and premises and otherwise check the

1 accuracy of the return.

2 (3) The department shall suspend, for sixty (60) days
3 or less, the license of a distributor who fails to make any
4 return required under this act, or who falsifies any
5 material fact contained in any return. A second failure or
6 falsification shall result in revocation of license.

7 (4) If a licensed manufacturer is also his own
8 distributor, he shall be licensed as a distributor also. No
9 additional fee may be charged and the distributor shall
10 comply with all provisions and requirements of this act
11 relating to licensed manufacturers and to licensed
12 distributors.

13 Section 18. Failure to pay fees--penalties. Any
14 person who willfully fails to report, pay, or truthfully
15 account for and pay over the license fees imposed by this
16 act or by any other gambling law of this state or willfully
17 attempts in any manner to evade or defeat any tax or payment
18 thereof, or any licensee who puts additional gambling games
19 or gaming devices into play without authority of the
20 department or any licensee, licensed manufacturer or
21 licensed distributor who fails to remit any license fee
22 provided for by this act or any gambling law of this state
23 when due, shall pay, in addition to the amount due, a
24 penalty of twice the amount of the license fee evaded or not
25 paid over. The penalty shall be assessed and collected in

1 the same manner as are other charges, license fees and
2 penalties under this act.

3 Section 19. Multiple licenses prohibited. No licensee
4 may hold more than one license for the same kind of gambling
5 game, nor may any licensee hold a license permitting the
6 conducting of the same kind of gambling game at more than
7 one location.

8 Section 20. Licenses to be posted--inspection.
9 (1) The licensee shall post, unless otherwise authorized,
10 all basic licenses and other licenses, in a conspicuous
11 place in the establishment for which the license is issued
12 until replaced by a succeeding license.

13 (2) All licenses may be inspected by authorized state,
14 county, or municipal officers. Upon inspection the officer
15 shall report, in writing, to the department and the sheriff
16 of the county wherein such gambling games and gaming devices
17 are located, any and all gambling games operated without a
18 valid license.

19 (3) It is the duty of all state, county, or municipal
20 law enforcement officials to diligently inspect the
21 establishments in their areas where gambling games are
22 carried on for any violations of the gambling laws.

23 Section 21. Renewal of licenses. (1) All gaming
24 licenses, manufacturer's licenses and distributor's licenses
25 are to be renewed by July 1 of each year.

1 (2) Application for renewal shall be filed with the
2 department and all license fees paid not later than June 1
3 of each year.

4 (3) Renewal fees are the same as the fees required for
5 the issuance of a new license.

6 (4) An application for renewal of a gaming license,
7 manufacturer's license or distributor's license is treated
8 as a new application. The grant of a gaming license,
9 manufacturer's license, or distributor's license under the
10 gambling laws is a revocable privilege and gives rise to no
11 rights to renewal or continuation.

12 (5) No gaming license, manufacturer's license, or
13 distributor's license granted under any gambling law of this
14 state is assignable or transferable.

15 Section 22. Gaming devices exempt from federal law.
16 Under 15 U.S.C. 1171-1177, the state of Montana, acting by
17 and through its duly elected and qualified members of the
18 legislature, does hereby, declare and proclaim that it is
19 exempt from the provisions of that law, in all cases
20 concerning the transportation of bingo cards and gaming
21 devices specifically authorized by statute for use in this
22 state.

23 Section 23. Shipments of authorized gaming devices to
24 be legal shipments. All shipments of exempt gaming devices,
25 into this state, the registering, recording, and labeling of

1 which has been duly had by the manufacturer or dealer
2 thereof in accordance with 15 U.S.C. 1171 et seq. are legal
3 shipments into this state.

4 Section 24. License fees and taxes deposited with
5 state treasurer--distribution. License fees and taxes
6 collected under this act shall be deposited with the state
7 treasurer not later than the close of business the next
8 business day after receipt. The state treasurer shall
9 credit fifty percent (50%) of the gross revenue received to
10 the state general fund; twenty-five percent (25%) to the
11 county in which the establishment for which the license fees
12 and taxes were collected is located; twenty-five percent
13 (25%) to the incorporated municipality in which the
14 establishment for which the license fees and taxes were
15 collected is located. If an establishment from which the
16 license fees and taxes are collected is not located within
17 an incorporated municipality, then fifty percent (50%) of
18 the license fees and taxes collected for that establishment
19 shall be credited to the county in which the establishment
20 is located. Money credited to a county or municipality
21 under this section shall be paid to the respective county or
22 city treasurer.

23 Section 25. Minors prohibited from gambling games and
24 gaming establishments. (1) No person under the age of
25 eighteen (18) may:

1 (a) play or be allowed to play any gambling game or
2 gaming device licensed under this act; or

3 (b) loiter or be permitted to loiter or be employed in
4 or about any room or immediate area wherein any licensed
5 gambling is conducted and operated.

6 (2) Any licensee, employee, agent, or other person
7 knowingly violating or knowingly permitting the violation of
8 any of the provisions of this section is guilty of a
9 misdemeanor.

10 (3) Conviction of a licensee for violation of this
11 section may be grounds for suspension or revocation of the
12 licensee's license.

13 Section 26. Gambling on cash basis. (1) In every
14 gambling game conducted under any gambling law of the state
15 the consideration paid for the chance to play shall be cash.
16 Each participant other than the licensee must present the
17 money with which he intends to play the gambling game at the
18 time the game is played. No check, credit card, note,
19 I.O.U., or other evidence of indebtedness shall be offered
20 or accepted as part of the price of participating in a
21 gambling game or as payment of a gambling debt. If the
22 pertinent gambling law of the state of Montana permits a
23 merchandise award, the prize may be merchandise, and to that
24 extent, the provisions of this law are made inapplicable to
25 the award of the merchandise prize.

1 (2) No action based on a gambling debt is maintainable
2 in a court of this state except against a licensee for a
3 debt based on a gambling game conducted by the licensee, nor
4 may any legal process of this state be employed for the
5 collection of a gambling debt except against a licensee.

6 Section 27. Cheating unlawful. It is unlawful to
7 conduct or participate in a gambling game authorized by this
8 act or any other gambling law in any manner which results in
9 cheating, misrepresentation, or other disreputable tactics
10 which distract from a fair and equal chance for all
11 participants or which otherwise affects the outcome of the
12 gambling game.

13 Section 28. Rigged or tampered with games and cheating
14 devices unlawful. (1) It is unlawful for any person
15 playing any licensed gambling game to carry on, operate,
16 deal, or allow to be conducted, carried on, operated, or
17 dealt, or to expose for play, any gambling game or gaming
18 device which may have in any manner been marked or tampered
19 with to deceive the public. This prohibition includes any
20 electrical or other device which might render the outcome of
21 the game more probable than ordinary chance would indicate.
22 The use of marked cards, bogus or counterfeit chips, or
23 plugged or tampered with gaming devices to deceive the
24 public is expressly made unlawful.

25 (2) It is unlawful for any individual player to use

1 any cheating or thieving device or any mechanical,
 2 electrical, or other device or combination of these devices;
 3 or to in any way tamper, damage, or otherwise control any
 4 gaming device or to introduce into any gambling game marked
 5 cards or any other means designed and intended to increase
 6 the chance of winning or losing by any player.

7 (3) A violation of the provisions of this section is a
 8 misdemeanor, and shall be punished by a fine of not less
 9 than one thousand dollars (\$1000) or by imprisonment in the
 10 county jail for not less than six (6) months, or by both
 11 fine and imprisonment.

12 Section 29. Unlawful to deal or conduct cheating or
 13 rigged game. (1) It is unlawful:

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

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

22 (i) tends to deceive the public; or

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

25 (2) The use of marked cards, plugged or tampered with

1 gaming devices, is hereby found and declared to be the
 2 practice of deception upon the public and is expressly
 3 declared unlawful.

4 (3) Any violation of the provisions of this section is
 5 a misdemeanor, and shall be punished by a fine of not less
 6 than one thousand dollars (\$1000) or by imprisonment in the
 7 county jail for six (6) months or by both fine and
 8 imprisonment.

9 Section 30. Unlawful to manufacture rigged games or
 10 cheating devices or equipment. (1) It is unlawful to
 11 manufacture or sell:

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

13 (b) any game or games played with cards or any gaming
 14 device, or any combination of such games or devices, which
 15 may have in any manner been marked or tampered with to
 16 deceive the public;

17 (2) Any violation of the provisions of this section is
 18 a felony, punishable upon conviction by imprisonment in the
 19 state prison for not more than five (5) years or a fine of
 20 not more than ten thousand dollars (\$10,000) or both.

21 Section 31. Department agents may act as peace
 22 officers--cooperation of department of justice and local
 23 authorities. For the purposes of administration of this
 24 act, the department, its agents, and inspectors designated
 25 as responsible for the enforcement of this act are vested

1 with the power of a peace officer of the state of Montana.
 2 In connection with possible criminal violation of the
 3 gambling laws of the state of Montana, the department, the
 4 department of justice, county attorneys, and all other law
 5 enforcement officials of the state shall cooperate to assure
 6 the enforcement of these laws and the exchange of
 7 information relating thereto.

8 Section 32. Violation of act misdemeanor--revocation
 9 of license. (1) Any person who willfully violates any
 10 provision of this act is guilty of a misdemeanor, unless
 11 another classification is specifically provided.

12 (2) In addition, upon certification to the department
 13 by any court of competent jurisdiction that a licensee,
 14 licensed manufacturer, or licensed distributor has been
 15 convicted of a violation of any of the provisions of this
 16 act, the department may revoke the license, or at its
 17 discretion, may suspend the license of any convicted
 18 licensee, licensed manufacturer, or licensed distributor for
 19 any period of time considered justifiable, considering the
 20 gravity of the violation.

21 (3) Any person or corporation who willfully fails to
 22 report, pay, and truthfully account for and pay over any
 23 license fee or tax imposed by the provisions of this act, or
 24 willfully attempts in any manner to evade or defeat any
 25 license fee or tax or payment thereof, is guilty of a

1 misdemeanor and upon conviction thereof may be punished by a
 2 fine of not less than one thousand dollars (\$1000) or by
 3 imprisonment in the county jail for not more than one (1)
 4 year, or both.

5 Section 33. Venue in district court. Venue for any
 6 violation of this act or any other gambling law of this
 7 state lies in the district court of the county in which the
 8 violation takes place.

9 Section 34. Local authorities, department to report
 10 unlicensed gambling--unlicensed gambling a public nuisance.
 11 (1) Whenever it comes to the attention of any sheriff,
 12 peace officer, or employee of the department that any person
 13 has in his possession any unlicensed or illegal gaming
 14 device, or is operating and conducting any gambling game not
 15 properly licensed or not authorized, the sheriff, peace
 16 officer, or employee of the department shall report the
 17 matter at once in writing to the attorney general, county
 18 attorney and the department.

19 (2) Any person who has in his possession an unlicensed
 20 or illegal gaming device or who is conducting any
 21 unauthorized or illegal gambling game is maintaining a
 22 public nuisance. The county attorney or agents of the
 23 department of revenue may maintain an action to abate such
 24 public nuisance, according to the procedures of section
 25 94-8-107 of the Montana Criminal Code.

1 (3) The department shall prescribe reasonable
2 regulations for disposition of gaming devices upon final
3 termination of the license. Possession of the devices by a
4 former licensee during the period of time allowed for
5 disposal thereof shall not constitute a violation of this
6 act.

7 Section 35. Licensing of gambling a state function.
8 The licensing and taxing of gambling as permitted by this
9 act are declared to be the exclusive function of the state.

10 Section 36. Penalty for misdemeanor violations of act.
11 The violation of any provision of this act or any gambling
12 law designated a misdemeanor and for which a specific
13 penalty is not set forth is punishable by a fine not
14 exceeding one thousand (\$1000) or by imprisonment in the
15 county jail not exceeding six (6) months, or both.

16 Section 37. Penalty for felony violations of act. The
17 violation of any provision of this act or any gambling law
18 designated a felony and for which a specific penalty is not
19 set forth is punishable by a fine not exceeding ten thousand
20 dollars (\$10,000) or by imprisonment in the state prison for
21 a period not exceeding five (5) years, or both.

22 Section 38. Attorney General may prosecute. Any
23 apparent violation of this act and proceeding for civil
24 abatement under this act may be investigated and prosecuted
25 by the attorney general.

1 Section 39. Act does not apply to parimutuel horse
2 racing. This act does not apply to horse racing and
3 parimutuel wagering as described and regulated in section
4 62-501 through 62-514, R.C.M. 1947.

5 Section 40. Prior to law to remain in effect. To the
6 extent that they are not specifically superceded by
7 provisions of this act or any other gambling law, the
8 provisions of sections 94-8-401 through 94-8-431, R.C.M.
9 1947, remain in effect.

10 Section 41. Severability. If a part of this act is
11 invalid, all valid parts that are severable from the invalid
12 part remain in effect. If a part of this act is invalid in
13 one or more of its applications, that part remains in effect
14 in all valid applications that are severable from the
15 invalid applications.

16 Section 42. Repealer. Sections 62-707, 62-708, 62-719
17 and 62-720, R.C.M. 1947, are repealed.

-End-

Approved by Committee
on State Administration

1 SENATE BILL NO. 131
2 INTRODUCED BY GREELY, DEVINE, FASBENDER, MANLEY
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT, LICENSE,
5 REGULATE, AND CONTROL GAMBLING GAMES AND GAMING DEVICES;
6 AUTHORIZING THE DEPARTMENT OF REVENUE TO ADMINISTER THE
7 GAMBLING LAWS; SPECIFYING ITS POWERS AND DUTIES; PROVIDING
8 PENALTIES FOR VIOLATION OF THE GAMBLING LAWS; AND REPEALING
9 SECTIONS 62-707, 62-708, 62-719 AND 62-720, R.C.M. 1947."
10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 Section 1. Short title. This act may be cited as the
13 "Montana Gaming Control Act of 1975".
14 Section 2. Definitions. As used in this act unless
15 the context otherwise indicates:
16 (1) "Applicant" means any person who has applied for
17 the issuance of a license under the provisions of any act of
18 this state authorizing the licensing of a gambling game, or
19 any person or corporation which has applied for the issuance
20 of a manufacturer's license or a distributor's license under
21 this or any other gambling law of this state.
22 (2) "Application" means a request for the issuance of
23 a license, manufacturer's license or distributor's license
24 made under this act.
25 (3) "City" means any incorporated city or town of the

1 state of Montana.
2 (4) "County" means any political subdivision of the
3 state designated by state law as a county.
4 (5) "Department" means the department of revenue.
5 (6) "Establishment" means any premises wherein or
6 whereon any gambling is done.
7 (7) "Gambling game" means any banking or percentage
8 game played with cards, dice, or any ~~mechanical~~---~~or~~
9 ~~electrical~~ GAMING device ~~or-machine~~ for money, property,
10 checks, credit, or any representative of value.
11 (8) "Authorized gambling game" means any gambling game
12 which is specifically authorized by statute in this state.
13 (9) "Gambling laws" means any or all of the laws
14 passed by this state concerning the licensing, regulating,
15 or limiting of gambling games.
16 (10) "Gaming device" means any ~~mechanical-or-electrical~~
17 ~~contrivance-or-machine~~ OF THE FOLLOWING WHICH ARE used in
18 connection with any A gambling game:
19 (A) A MECHANICAL OR ELECTRONICAL CONTRIVANCE OR
20 MACHINE;
21 (B) A PUNCHBOARD;
22 (C) BINGO EQUIPMENT; OR
23 (D) SPORTS POOL CARDS.
24 (11) "Hearing examiner" means a person authorized by
25 the department of revenue to conduct investigative hearings.

1 (12) "License" means any license issued by the
2 department of revenue under this act or under an act
3 regulating a particular gambling game authorizing the person
4 named therein to conduct or to permit to be conducted in his
5 establishment the particular authorized gambling game
6 specified in the license. Licenses to conduct gambling
7 games may be issued only to persons, as defined by this act.

8 (13) "Licensee" means any person to whom a valid
9 license to conduct gambling games has been issued.

10 (14) "Licensed distributor" means any person or
11 corporation to whom a valid distributor's license has been
12 issued.

13 (15) "Licensed manufacturer" means any person or
14 corporation to whom a valid manufacturer's license has been
15 issued.

16 (16) "Distributor's license" means a license to
17 distribute any gaming device specifically authorized by
18 statute in this state for use in authorized gambling games
19 in this state.

20 (17) "Manufacturer's license" means a license to
21 manufacture or rebuild any gaming device specifically
22 authorized by statute in this state for use in authorized
23 gambling games in this state.

24 (18) "License fees" means any money required by law to
25 be paid to obtain or renew a license.

1 (19) "Operation" means the conduct of a gambling game.

2 (20) "Party" means the department of revenue or any
3 licensee, person or corporation appearing of record in any
4 proceedings before the department or hearing examiner, and
5 any licensee, person or corporation appearing of record in
6 any proceedings for judicial review of any action, decision
7 or order of the department.

8 (21) "Year" means a period of twelve (12) consecutive
9 months commencing on the first day of July in any year.

10 (22) "Person" means any natural person or partnership
11 composed of natural persons.

12 (23) "Respondent" means any licensee, person, or
13 corporation against whom a complaint has been filed with the
14 department.

15 (24) "PUNCHBOARD" MEANS ANY BOARD, SPINDLE, JAR OR
16 OTHER DEVICE WHICH CONTAINS NUMBERED TABS AND IS PLAYED BY
17 THE INSERTION OF A PEG, MANUALLY PULLING FROM A SPINDLE OR
18 WITHDRAWING FROM A JAR OR OTHER CONTAINER, A TAB, AND FOR
19 WHICH MONEY OR OTHER CONSIDERATION IS PAID TO WIN A PRIZE
20 CONSISTING OF MONEY, MERCHANDISE OR OTHER ITEMS OF VALUE.

21 Section 3. Department of revenue to administer. The
22 department of revenue shall administer this act and the
23 gambling laws of this state.

24 Section 4. Department to report to governor and
25 legislature. (1) The department of revenue shall make an

1 annual report to the governor and the legislature
2 containing:

3 (a) an accounting of the revenues derived by the state
4 from licensing under this act;

5 (b) the number and types of licenses issued under this
6 or any gambling statute of this state;

7 (c) the total gross income reported by all licensees
8 from the conduct of gambling games and by all licensed
9 manufacturers and distributors, together with measures of
10 the range of gross income;

11 (d) a record of all hearings and disciplinary actions
12 taken by the department;

13 (e) the expense to the department of administering the
14 gambling laws including therein a breakdown of the various
15 sources of expense; and

16 (f) those recommendations for change in the gambling
17 laws the department considers necessary or desirable.

18 (2) The department of revenue shall report immediately
19 to the governor and the legislature any matter which
20 requires immediate change in the laws of this state in order
21 to prevent abuses and evasions of the gambling laws or rules
22 promulgated thereunder or to rectify undesirable conditions
23 in connection with the administration or operation of the
24 gambling laws.

25 Section 5. Department to maintain files. (1) The

1 department shall keep and maintain a file of all
2 applications for gaming licenses, manufacturer's licenses or
3 distributor's licenses made under this act and any other
4 gambling law together with a record of all actions taken
5 with respect to the applications. The file and record shall
6 be open to public inspection.

7 (2) The department may maintain other files and
8 records as it considers desirable.

9 Section 6. Public policy to protect health and
10 welfare--revocability of license. (1) It is hereby
11 declared to be the policy of this state that all
12 establishments where gambling games are conducted or
13 operated or where gaming devices are operated in the state
14 of Montana shall be licensed and regulated to better protect
15 the public health, safety, good order, and general welfare
16 of the inhabitants of the state of Montana.

17 (2) Any license issued under this act is a revocable
18 privilege, and no licensee acquires any vested rights in the
19 license.

20 Section 7. Authority of department to determine
21 suitability of applicants--inspect licensed premises and
22 licensees. (1) The department of revenue is hereby charged
23 with administering the provisions of this act and provisions
24 of any other gambling laws with respect to state gaming
25 licenses, manufacturer's licenses and distributor's

1 licenses, for the protection of the public and in the public
2 interest in accordance with the policy of this state.

3 (2) The department shall investigate the
4 qualifications of each applicant for a gaming license,
5 manufacturer's license or distributor's license under this
6 act before any license is issued and shall continue to
7 observe the conduct of all licensees, licensed manufacturers
8 and licensed distributors to the end that no license of any
9 kind may be issued to or held by unqualified or disqualified
10 persons or unsuitable persons or persons whose operations
11 are conducted in an unsuitable manner or for unsuitable or
12 prohibited places or locations, nor may any manufacturer's
13 or distributor's license be held by an unsuitable,
14 unqualified or disqualified person or corporation. The
15 department, for any cause considered reasonable by the
16 department, may deny any application for a gaming license,
17 manufacturer's license or distributor's license or limit,
18 condition, or restrict such license, or suspend or revoke
19 any license for any violation of this act or for violation
20 of any gambling law or for violation of the rules
21 established by the department.

22 (3) The department and its agents, inspectors and
23 employees may:

24 (a) inspect and examine all premises wherein gambling
25 games are conducted or gaming devices are manufactured or

1 held for distribution;

2 (b) inspect all equipment and supplies in, upon or
3 about such premises;

4 (c) summarily seize and remove from such premises and
5 impound any such equipment or supplies for the purpose of
6 examination and inspection;

7 (d) demand access to and inspect, examine and audit
8 all papers, books and records of applicants, licensees,
9 licensed manufacturers, and licensed distributors including
10 verified accounts of gross income produced by the use of the
11 license, which accounts may be required by the department,
12 and all other matters affecting the enforcement of the
13 policy of or any of the provisions of this act.

14 Section 8. Department to make rules. (1) The
15 department shall adopt, amend, or repeal rules consistent
16 with the policy, objects, and purposes of this act as it
17 considers necessary or desirable in the public interest to
18 carry out the policy and provisions of the gambling laws of
19 this state.

20 (2) The rules may, without limiting the general powers
21 conferred:

22 (a) prescribe the method and form of application which
23 an applicant for a gaming license, manufacturer's license,
24 or distributor's license shall follow and complete prior to
25 consideration of his application by the department;

1 (b) prescribe the information to be furnished by any
2 applicant, licensee, or licensed manufacturer or distributor
3 as may be requested by the department;

4 (c) require fingerprinting of an applicant, licensee,
5 licensed manufacturer or distributor, or any stockholder or
6 employee of any applicant or licensee, or other method of
7 identification;

8 (d) prescribe, consistent with the Montana
9 Administrative Procedure Act, the manner and procedure of
10 all hearings conducted by the department or any hearing
11 examiner of the department, including special rules of
12 evidence applicable thereto and notices thereof;

13 (e) require any applicant for an annual gaming
14 license, manufacturer's license, or distributor's license to
15 pay all or any part of the actual and necessary cost of
16 investigation of such applicant. The department may
17 establish a schedule of minimum investigatory fees;

18 (f) prescribe the manner and method of collection and
19 payment of fees and issuance of licenses;

20 (g) define and limit the area, games and devices
21 permitted and the authorized method of operation of those
22 games and devices;

23 (h) prescribe when the nonpayment of a gambling debt
24 by a licensee is grounds for revocation or suspension of his
25 license.

1 Section 9. Department to investigate violators
2 --procedure for hearing on violations--appeal. (1) The
3 department shall investigate any apparent violation of this
4 act or any rule which comes to its attention and, when
5 disciplinary or other action is taken against a licensee,
6 licensed manufacturer, or licensed distributor, it shall
7 conduct the necessary investigative hearings.

8 (2) If, after the investigation, the department is
9 satisfied that a gaming license, manufacturer's license, or
10 distributor's license should be limited, conditioned,
11 suspended or revoked, it shall issue an order to show cause
12 setting forth;

13 (a) the name of the licensee or licensed manufacturer
14 or licensed distributor;

15 (b) the nature of the alleged violation; and

16 (c) the time and place of the hearing.

17 The licensee, licensed manufacturer, or licensed
18 distributor shall appear at that time and place. He may
19 bring his attorney and witnesses and produce testimony for
20 and on his behalf and he may cross-examine any and all
21 witnesses appearing for and on behalf of the department.
22 The attorney for the department may cross-examine the
23 witnesses produced by the licensee, licensed manufacturer or
24 licensed distributor. The hearing shall conform in all
25 respects with the procedures of the Montana Administrative

1 Procedure Act for contested cases except where a specific
 2 provision of this act supplants those procedures. A record
 3 or transcript of all testimony adduced at the hearing shall
 4 be made. The department shall, at the conclusion of all
 5 testimony, make its findings and order, a copy of which
 6 shall be sent to the licensee, licensed manufacturer, or
 7 licensed distributor by certified mail. The licensee,
 8 licensed manufacturer or licensed distributor has the right
 9 to appeal the order of the department to the district court
 10 according to the procedures provided for appeal from the
 11 orders of administrative agencies in the Montana
 12 Administrative Procedure Act. The appeal shall be heard on
 13 the record made at the hearing before the department and no
 14 other testimony shall be introduced unless the court of
 15 judge shall, upon good cause shown, allow the additional
 16 testimony.

17 (3) The order of the department made under this
 18 section shall take effect immediately and shall remain
 19 effective until reversed or modified upon appeal, except
 20 the department may stay its order pending appeal upon the
 21 terms and conditions it considers proper.

22 (4) The time limits and provisions for a transcript of
 23 the record of the proceeding, as set forth in section
 24 82-4216 of the Montana Administrative Procedure Act shall
 25 apply to appeals from hearings held under this act.

1 Section 10. Only licensees to conduct gambling games.
 2 (1) It is unlawful for any person, either as owner, lessee,
 3 or employee, whether for hire or not, either solely or in
 4 conjunction with others, without having first procured and
 5 thereafter maintained in full force and effect, all federal
 6 and state licenses required by statute:

7 (a) to deal, operate, carry on, conduct, maintain or
 8 expose for play in the state of Montana, any gambling game
 9 or gaming device; or

10 (b) to receive, directly or indirectly, any
 11 compensation or reward or any percentage or share of the
 12 money or property played for keeping, running, carrying on,
 13 or permitting to be carried on any gambling game.

14 (2) It is unlawful for any person to lend, let, lease,
 15 or otherwise deliver or furnish any equipment of any
 16 gambling game or gaming device for any interest or any
 17 percentage or share of the money or property played, under
 18 guise of any agreement whatever.

19 (3) It is unlawful for any person either as owner,
 20 lessee, or employee, whether for hire or not, either solely
 21 or in conjunction with others to provide or maintain any
 22 information service, the primary purpose of which is to aid
 23 the placing or making of wagers on events of any kind.

24 (4) Any person who shall knowingly permit any gambling
 25 game, to be conducted, operated, dealt, or carried on in any

1 house or building or other premises owned by him, in whole
2 or in part, except by a person who is licensed under this
3 act, or his employee, is guilty of a misdemeanor.

4 Section 11. Qualifications of licensee. A person or,
5 if the applicant is a partnership, each partner must have
6 the following qualifications to obtain a state license:

7 (1) be a resident of the state of Montana for one (1)
8 year prior to application;

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

10 (3) not be under state supervision for any offense
11 against the state or for any crime which if committed in
12 Montana, would be a felony;

13 (4) have good moral character and reputation.

14 Section 12. Contents of applications for license.
15 Application for a state license to conduct an authorized
16 gambling game shall be made to the department of revenue on
17 forms furnished by it and in accordance with the regulations
18 of the department. The applications shall include:

19 (a) the name of the proposed licensee;

20 (b) the location and his place of business;

21 (c) the number and kinds of gambling games to be
22 conducted or gaming devices to be operated;

23 (d) the names of all persons, directly or indirectly,
24 interested in the business and the nature of such interest;
25 and

1 (e) any other information the department may require
2 in order to discharge its duties hereunder.

3 Section 13. License fees. (1) The fee for a license
4 is the fee specified in the act authorizing and regulating
5 the particular gambling game.

6 (2) Any person or corporation who manufactures,
7 rebuilds, or distributes within or without the state of
8 Montana for sale, lease, or rent any gaming device and who
9 is not subject to a license and fee under the statute
10 authorizing the gaming device, shall obtain an annual
11 license for which the fee is five hundred dollars (\$500).
12 If a person or corporation both manufactures and
13 distributes, only one license fee is required.

14 (3) If at the time an annual license is issued, the
15 period remaining until the statutory renewal date is less
16 than twelve (12) months, the fee charged shall be a pro rata
17 share of the license fee established in the statute
18 prescribing the license fee.

19 Section 14. Licensed manufacturers--qualifications--
20 penalty for unlicensed manufacturing. (1) It is unlawful
21 for any person or corporation, either as owner, lessee, or
22 employee, whether for hire or not, to operate, carry on,
23 conduct, or maintain in the state of Montana any form of
24 manufacturing, rebuilding, selling, or distributing any
25 gaming device without having first procured a license for

1 manufacturing, rebuilding, selling, or distributing as
2 provided in this act.

3 (2) Violation of the provisions of this section is a
4 felony.

5 (3) Any person or corporation whom the department
6 determines to be a suitable person or corporation to receive
7 a manufacturer's or distributor's license under the
8 provisions of this act, having due consideration for the
9 proper protection of the public health, safety, good order,
10 and general welfare of the inhabitants of the state of
11 Montana, may be issued a manufacturer's and rebuilders or a
12 distributor's license. The burden of proving his
13 qualifications to receive or hold any manufacturer's or
14 distributor's license under this act shall rest at all times
15 with the applicant or licensed manufacturer or distributor.

16 Section 15. Licensed manufacturers--procedure for
17 obtaining license. (1) A person or corporation desiring to
18 manufacture or rebuild any gaming device under this act,
19 shall first apply to the department for a license and tender
20 with the application the license fee prescribed, together
21 with so much of the anticipated fees and costs of
22 investigation of the person or corporation as may be
23 required by the department.

24 (2) Upon proof that the person or corporation is
25 qualified in accordance with this act and the regulations of

1 the department, the department shall issue a manufacturer's
2 license to the person or corporation, which license shall be
3 at all times prominently displayed in the place of business
4 of such licensed manufacturer. Thereafter the licensed
5 manufacturer may manufacture or rebuild gaming devices and
6 sell the same within this state to licensees or licensed
7 distributors under this act or for use outside this state in
8 conformity with applicable laws of the United States.

9 (3) If the department finds that the person or
10 corporation is not qualified, no manufacturer's license may
11 be granted and the license fee tendered shall be returned,
12 together with that portion, if any of the anticipated fees
13 and costs of investigation which were not used in the
14 investigation of the person or corporation.

15 Section 16. Licensed distributors--qualifications
16 --procedure for obtaining license. (1) Any person or
17 corporation who desires to sell, lease, and distribute any
18 gaming device under this act, shall first apply to the
19 department for a distributor's license and tender with his
20 application the license fee prescribed, together with the
21 anticipated fees and costs of investigation of the person
22 or corporation, as required by the department.

23 (2) To qualify for a distributor's license a person
24 shall possess all of the qualifications required of the
25 holder of a gaming license and shall have been a resident of

1 Montana for a period of one (1) year immediately prior to
2 making application.

3 (3) If the applicant is a Montana corporation:

4 (a) the corporation shall have been organized for a
5 period of one (1) year immediately prior to making
6 application;

7 (b) the owners of a majority of the corporation's
8 stock must also be residents of Montana and must have been
9 residents of Montana at least one (1) year prior to making
10 application; and

11 (c) the individual majority stockholders shall possess
12 all of the qualifications required of a holder of a gaming
13 license. An individual or partnership which has been
14 licensed as a distributor may, upon incorporation in
15 accordance with the laws of the state of Montana, transfer
16 the distributor's license to the corporation if a majority
17 of the capital stock thereof is held by the individual or
18 the members of the partnership.

19 (4) Upon proof, that the person or corporation is
20 qualified in accordance with this act and the departmental
21 rules, the department shall issue a distributor's license to
22 the person or corporation, which license shall be at all
23 times prominently displayed in the place of business of the
24 licensed distributor. Thereafter the licensed distributor
25 may sell, lease, and distribute gaming devices to other

1 licensed distributors and gaming licensees and repair and
2 maintain such gaming devices.

3 (5) If the department finds that a person or
4 corporation is not qualified, a distributor's license shall
5 not be granted and the license fee tendered shall be
6 returned, together with that portion, if any, of the
7 anticipated fees and cost of investigation which were not
8 used in the investigation of the person or corporation.

9 Section 17. Licensed distributors to receive gaming
10 devices from licensed manufacturers--procedures--records--
11 penalties. (1) In order to control and regulate the
12 traffic in gaming devices and thereby protect the public
13 health, safety, good order and general welfare of the
14 inhabitants of the state of Montana, all gaming devices
15 manufactured or rebuilt within or outside the state of
16 Montana, shall be consigned and shipped by a licensed
17 manufacturer to a distributor licensed under this act and
18 unloaded by the licensed distributor into his warehouse in
19 Montana. The distributor shall keep records at his
20 warehouse of all gaming devices which he receives, including
21 the names and kinds received, serial numbers or other
22 identifying characters or symbols where applicable, and the
23 names and addresses of the licensed distributors and gaming
24 licensees to whom the gaming devices are sold or leased.
25 The records shall be available for inspection at all times

1 by any member or representative of the department.

2 (2) Every distributor licensed under this act shall,
3 on or before the fifteenth day of each January, April, July,
4 and October make an exact return to the department of all
5 gaming devices which he received and sold or leased during
6 the previous calendar quarter, the serial numbers or other
7 identifying characters or symbols where applicable, and the
8 names and addresses of the licensed purchasers or lessees,
9 in the manner and on such form as the department may
10 prescribe. The department at any time may examine the
11 distributor's books and premises and otherwise check the
12 accuracy of the return.

13 (3) The department shall suspend, for sixty (60) days
14 or less, the license of a distributor who fails to make any
15 return required under this act, or who falsifies any
16 material fact contained in any return. A second failure or
17 falsification shall result in revocation of license.

18 (4) If a licensed manufacturer is also his own
19 distributor, he shall be licensed as a distributor also. No
20 additional fee may be charged and the distributor shall
21 comply with all provisions and requirements of this act
22 relating to licensed manufacturers and to licensed
23 distributors.

24 Section 18. Failure to pay fees--penalties. Any
25 person who willfully fails to report, pay, or truthfully

1 account for and pay over the license fees imposed by this
2 act or by any other gambling law of this state or willfully
3 attempts in any manner to evade or defeat any tax or payment
4 thereof, or any licensee who puts additional gambling games
5 or gaming devices into play without authority of the
6 department or any licensee, licensed manufacturer or
7 licensed distributor who fails to remit any license fee
8 provided for by this act or any gambling law of this state
9 when due, shall pay, in addition to the amount due, a
10 penalty of twice the amount of the license fee evaded or not
11 paid over. The penalty shall be assessed and collected in
12 the same manner as are other charges, license fees and
13 penalties under this act.

14 Section 19. Multiple licenses prohibited. No licensee
15 may hold more than one license for the same kind of gambling
16 game, nor may any licensee hold a license permitting the
17 conducting of the same kind of gambling game at more than
18 one location.

19 Section 20. Licenses to be posted--inspection.
20 (1) The licensee shall post, unless otherwise authorized,
21 all basic licenses and other licenses, in a conspicuous
22 place in the establishment for which the license is issued
23 until replaced by a succeeding license.

24 (2) All licenses may be inspected by authorized state,
25 county, or municipal officers. Upon inspection the officer

1 shall report, in writing, to the department and the sheriff
2 of the county wherein such gambling games and gaming devices
3 are located, any and all gambling games operated without a
4 valid license.

5 (3) It is the duty of all state, county, or municipal
6 law enforcement officials to diligently inspect the
7 establishments in their areas where gambling games are
8 carried on for any violations of the gambling laws.

9 Section 21. Renewal of licenses. (1) All gaming
10 licenses, manufacturer's licenses and distributor's licenses
11 are to be renewed by July 1 of each year.

12 (2) Application for renewal shall be filed with the
13 department and all license fees paid not later than June 1
14 of each year.

15 (3) Renewal fees are the same as the fees required for
16 the issuance of a new license.

17 (4) An application for renewal of a gaming license,
18 manufacturer's license or distributor's license is treated
19 as a new application. The grant of a gaming license,
20 manufacturer's license, or distributor's license under the
21 gambling laws is a revocable privilege and gives rise to no
22 rights to renewal or continuation.

23 (5) No gaming license, manufacturer's license, or
24 distributor's license granted under any gambling law of this
25 state is assignable or transferable.

1 Section 22. Gaming devices exempt from federal law.
2 Under 15 U.S.C. 1171-1177, the state of Montana, acting by
3 and through its duly elected and qualified members of the
4 legislature, does hereby, declare and proclaim that it is
5 exempt from the provisions of that law, in all cases
6 concerning the transportation of bingo cards and gaming
7 devices specifically authorized by statute for use in this
8 state.

9 Section 23. Shipments of authorized gaming devices to
10 be legal shipments. All shipments of exempt gaming devices,
11 into this state, the registering, recording, and labeling of
12 which has been duly had by the manufacturer or dealer
13 thereof in accordance with 15 U.S.C. 1171 et seq. are legal
14 shipments into this state.

15 Section 24. License fees and taxes deposited with
16 state treasurer--distribution. License fees and taxes
17 collected under this act shall be deposited with the state
18 treasurer not later than the close of business the next
19 business day after receipt. The state treasurer shall
20 credit fifty percent (50%) of the gross revenue received to
21 the state general fund; twenty-five percent (25%) to the
22 county in which the establishment for which the license fees
23 and taxes were collected is located; twenty-five percent
24 (25%) to the incorporated municipality in which the
25 establishment for which the license fees and taxes were

1 collected is located. If an establishment from which the
 2 license fees and taxes are collected is not located within
 3 an incorporated municipality, then fifty percent (50%) of
 4 the license fees and taxes collected for that establishment
 5 shall be credited to the county in which the establishment
 6 is located. Money credited to a county or municipality
 7 under this section shall be paid to the respective county or
 8 city treasurer.

9 Section 25. Minors prohibited from gambling games and
 10 gaming establishments. (1) No person under the age of
 11 eighteen (18) may:

12 (a) play or be allowed to play any gambling game or
 13 gaming device licensed under this act; or

14 (b) loiter or be permitted to loiter or be employed in
 15 or about any room or immediate area wherein any licensed
 16 gambling is conducted and operated.

17 (2) Any licensee, employee, agent, or other person
 18 knowingly violating or knowingly permitting the violation of
 19 any of the provisions of this section is guilty of a
 20 misdemeanor.

21 (3) Conviction of a licensee for violation of this
 22 section may be grounds for suspension or revocation of the
 23 licensee's license.

24 Section 26. Gambling on cash basis. (1) In every
 25 gambling game conducted under any gambling law of the state

1 the consideration paid for the chance to play shall be cash.
 2 Each participant other than the licensee must present the
 3 money with which he intends to play the gambling game at the
 4 time the game is played. No check, credit card, note,
 5 I.O.U., or other evidence of indebtedness shall be offered
 6 or accepted as part of the price of participating in a
 7 gambling game or as payment of a gambling debt. If the
 8 pertinent gambling law of the state of Montana permits a
 9 merchandise award, the prize may be merchandise, and to that
 10 extent, the provisions of this law are made inapplicable to
 11 the award of the merchandise prize.

12 (2) No action based on a gambling debt is maintainable
 13 in a court of this state except against a licensee for a
 14 debt based on a gambling game conducted by the licensee, nor
 15 may any legal process of this state be employed for the
 16 collection of a gambling debt except against a licensee.

17 Section 27. Cheating unlawful. It is unlawful to
 18 conduct or participate in a gambling game authorized by this
 19 act or any other gambling law in any manner which results in
 20 cheating, misrepresentation, or other disreputable tactics
 21 which distract from a fair and equal chance for all
 22 participants or which otherwise affects the outcome of the
 23 gambling game.

24 Section 28. Rigged or tampered with games and cheating
 25 devices unlawful. (1) It is unlawful for any person

1 playing any licensed gambling game to carry on, operate,
 2 deal, or allow to be conducted, carried on, operated, or
 3 dealt, or to expose for play, any gambling game or gaming
 4 device which may have in any manner been marked or tampered
 5 with to deceive the public. This prohibition includes any
 6 electrical or other device which might render the outcome of
 7 the game more probable than ordinary chance would indicate.
 8 The use of marked cards, bogus or counterfeit chips, or
 9 plugged or tampered with gaming devices to deceive the
 10 public is expressly made unlawful.

11 (2) It is unlawful for any individual player to use
 12 any cheating or thieving device or any mechanical,
 13 electrical, or other device or combination of these devices;
 14 or to in any way tamper, damage, or otherwise control any
 15 gaming device or to introduce into any gambling game marked
 16 cards or any other means designed and intended to increase
 17 the chance of winning or losing by any player.

18 (3) A violation of the provisions of this section is a
 19 misdemeanor, and shall be punished by a fine of not less
 20 than one thousand dollars (\$1000) or by imprisonment in the
 21 county jail for not less than six (6) months, or by both
 22 fine and imprisonment.

23 Section 29. Unlawful to deal or conduct cheating or
 24 rigged game. (1) It is unlawful:

25 (a) to conduct, carry on, operate, deal or allow to be

1 conducted, carried on, operated or dealt any cheating or
 2 thieving gambling game or device; or

3 (b) to deal, conduct, carry on, operate, or expose for
 4 play any game or games played with cards or any mechanical
 5 device, or any combination of games or devices, which have
 6 in any manner been marked or tampered with, or placed in a
 7 condition, or operated in a manner, the result of which:

8 (i) tends to deceive the public; or

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

11 (2) The use of marked cards, plugged or tampered with
 12 gaming devices, is hereby found and declared to be the
 13 practice of deception upon the public and is expressly
 14 declared unlawful.

15 (3) Any violation of the provisions of this section is
 16 a misdemeanor, and shall be punished by a fine of not less
 17 than one thousand dollars (\$1000) or by imprisonment in the
 18 county jail for six (6) months or by both fine and
 19 imprisonment.

20 Section 30. Unlawful to manufacture rigged games or
 21 cheating devices or equipment. (1) It is unlawful to
 22 manufacture or sell:

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

24 (b) any game or games played with cards or any gaming
 25 device, or any combination of such games or devices, which

1 may have in any manner been marked or tampered with to
2 deceive the public;

3 (2) Any violation of the provisions of this section is
4 a felony, punishable upon conviction by imprisonment in the
5 state prison for not more than five (5) years or a fine of
6 not more than ten thousand dollars (\$10,000) or both.

7 Section 31. ~~Department--agents--may--act--as--peace
8 officers--cooperation-of-department--of--justice--and--local
9 authorities.---For--the--purposes--of-administration-of-this
10 act,--the-department,--its-agents,--and--inspectors--designated
11 as--responsible--for--the-enforcement-of-this-act-are-vested
12 with-the-power-of-a-peace-officer-of-the-state--of--Montana.
13 In--connection--with--possible--criminal--violation--of--the
14 gambling-laws-of-the-state-of-Montana,--the--department,--the
15 department--of--justice,--county-attorneys,--and--all-other-law
16 enforcement-officials-of-the-state-shall-cooperate-to-assure
17 the--enforcement--of--these--laws--and--the--exchange--of
18 information--relating--thereto.~~ DUTY OF ANY PEACE OFFICER TO
19 SEIZE. (1) WHENEVER IT COMES TO THE ATTENTION OF ANY
20 SHERIFF, PEACE OFFICER OR EMPLOYEE OF THE DEPARTMENT THAT
21 ANY PERSON HAS IN HIS POSSESSION ANY UNLICENSED GAMING
22 DEVICE, OR IS OPERATING ANY GAMBLING GAME NOT PROPERLY
23 LICENSED, THAT SHERIFF, PEACE OFFICER OR EMPLOYEE OF THE
24 DEPARTMENT SHALL SEIZE AND TAKE THE GAMING DEVICE OR
25 GAMBLING EQUIPMENT BEFORE A MAGISTRATE OF THE COUNTY IN

1 WHICH IT IS FOUND.

2 (2) IT IS LAWFUL FOR OFFICERS, IN EXECUTING THE DUTIES
3 IMPOSED UPON THEM BY THIS SECTION, TO BREAK OPEN DOORS FOR
4 THE PURPOSE OF OBTAINING POSSESSION OF ANY UNLICENSED GAMING
5 DEVICE OR GAMBLING EQUIPMENT AFTER FIRST OBTAINING A VALID
6 SEARCH WARRANT.

7 (3) THE MAGISTRATE SHALL INQUIRE OF ANY WITNESS HE
8 SUMMONS OR WHO APPEARS BEFORE HIM ON THE NATURE OF THESE
9 UNLICENSED GAMING DEVICES OR GAMBLING EQUIPMENT; AND IF THE
10 MAGISTRATE DETERMINES THAT THIS EQUIPMENT IS UNLICENSED, HE
11 SHALL ORDER IT FORFEITED TO THE STATE FOR APPROPRIATE
12 DISPOSITION.

13 Section 32. Violation of act misdemeanor--revocation
14 of license. (1) Any person who willfully violates any
15 provision of this act is guilty of a misdemeanor, unless
16 another classification is specifically provided.

17 (2) In addition, upon certification to the department
18 by any court of competent jurisdiction that a licensee,
19 licensed manufacturer, or licensed distributor has been
20 convicted of a violation of any of the provisions of this
21 act, the department may revoke the license, or at its
22 discretion, may suspend the license of any convicted
23 licensee, licensed manufacturer, or licensed distributor for
24 any period of time considered justifiable, considering the
25 gravity of the violation.

1 (3) Any person or corporation who willfully fails to
 2 report, pay, and truthfully account for and pay over any
 3 license fee or tax imposed by the provisions of this act, or
 4 willfully attempts in any manner to evade or defeat any
 5 license fee or tax or payment thereof, is guilty of a
 6 misdemeanor and upon conviction thereof may be punished by a
 7 fine of not less than one thousand dollars (\$1000) or by
 8 imprisonment in the county jail for not more than one (1)
 9 year, or both.

10 Section 33. Venue in district court. Venue for any
 11 violation of this act or any other gambling law of this
 12 state lies in the district court of the county in which the
 13 violation takes place.

14 Section 34. Local authorities, department to report
 15 unlicensed gambling--unlicensed gambling a public nuisance.

16 (1) Whenever it comes to the attention of any sheriff,
 17 peace officer, or employee of the department that any person
 18 has in his possession any unlicensed or illegal gaming
 19 device, or is operating and conducting any gambling game not
 20 properly licensed or not authorized, the sheriff, peace
 21 officer, or employee of the department shall report the
 22 matter at once in writing to the attorney general, county
 23 attorney and the department.

24 (2) Any person who has in his possession an unlicensed
 25 or illegal gaming device or who is conducting any

1 unauthorized or illegal gambling game is maintaining a
 2 public nuisance. The county attorney or agents of the
 3 department of revenue may maintain an action to abate such
 4 public nuisance, according to the procedures of section
 5 94-8-107 of the Montana Criminal Code.

6 (3) The department shall prescribe reasonable
 7 regulations for disposition of gaming devices upon final
 8 termination of the license. Possession of the devices by a
 9 former licensee during the period of time allowed for
 10 disposal thereof shall not constitute a violation of this
 11 act.

12 Section 35. Licensing of gambling a state function.
 13 The licensing and taxing of gambling as permitted by this
 14 act are declared to be the exclusive function of the state.

15 Section 36. Penalty for misdemeanor violations of act.
 16 The violation of any provision of this act or any gambling
 17 law designated a misdemeanor and for which a specific
 18 penalty is not set forth is punishable by a fine not
 19 exceeding one thousand (\$1000) or by imprisonment in the
 20 county jail not exceeding six (6) months, or both.

21 Section 37. Penalty for felony violations of act. The
 22 violation of any provision of this act or any gambling law
 23 designated a felony and for which a specific penalty is not
 24 set forth is punishable by a fine not exceeding ten thousand
 25 dollars (\$10,000) or by imprisonment in the state prison for

1 a period not exceeding five (5) years, or both.

2 Section 38. Attorney General may prosecute. Any
3 apparent violation of this act and proceeding for civil
4 abatement under this act may be investigated and prosecuted
5 by the attorney general.

6 Section 39. Act does not apply to parimutuel horse
7 racing. This act does not apply to horse racing and
8 parimutuel wagering as described and regulated in section
9 62-501 through 62-514, R.C.M. 1947.

10 Section 40. Prior to law to remain in effect. To the
11 extent that they are not specifically superceded by
12 provisions of this act or any other gambling law, the
13 provisions of sections 94-8-401 through 94-8-431, R.C.M.
14 1947, remain in effect.

15 SECTION 41. UNLESS OTHERWISE SPECIFIED IN AN ACT
16 AUTHORIZING A GAMBLING GAME, FEES SHALL BE SET BY THE
17 DEPARTMENT BUT SHALL NOT EXCEED:

18 (A) FIVE HUNDRED DOLLARS (\$500) PER YEAR FOR EACH
19 LICENSE;

20 (B) TWO HUNDRED FIFTY DOLLARS (\$250) PER YEAR FOR EACH
21 GAMING TABLE;

22 (C) TWO HUNDRED FIFTY DOLLARS (\$250) PER YEAR FOR EACH
23 GAMING DEVICE AUTHORIZED FOR USE IN THIS STATE; AND

24 (D) FIFTY DOLLARS (\$50) PER YEAR FOR EACH EMPLOYEE WHO
25 OPERATES A GAMBLING GAME WITHIN A LICENSED ESTABLISHMENT.

1 Section 42. Severability. If a part of this act is
2 invalid, all valid parts that are severable from the invalid
3 part remain in effect. If a part of this act is invalid in
4 one or more of its applications, that part remains in effect
5 in all valid applications that are severable from the
6 invalid applications.

7 Section 43. Repealer. Sections 62-707, 62-708, 62-719
8 and 62-720, R.C.M. 1947, are repealed.

-End-