

1 SENATE BILL NO. 9
2 INTRODUCED BY GRAHAM

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
5 REVISION OF LAWS RELATING TO GAMBLING."
6

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
8 Section 1. Section 62-706, R.C.M. 1947, is amended to
9 read as follows:

10 "62-706. Gambling on cash basis. (1) In every ~~gambling~~
11 ~~game conducted pursuant to any gambling law of the state~~
12 authorized card game the consideration paid for the chance
13 to play shall be strictly cash. Every participant must
14 present the money with which he intends to play the ~~gambling~~
15 ~~game~~ at the time the game is played. No check, credit card,
16 note, ~~F.O.U.~~ IOU, or other evidence of indebtedness ~~shall~~
17 may be offered or accepted as part of the price of
18 participating in a ~~gambling card~~ game or as payment of a
19 ~~gambling debt incurred therein.~~

20 (2) No action based on such a ~~gambling~~ debt is
21 maintainable in a court of this state."

22 Section 2. Section 62-707, R.C.M. 1947, is amended to
23 read as follows:

24 "62-707. Local governing bodies may issue licenses.
25 (1) Any city, town, or county may issue licenses for the

1 ~~gambling~~ games provided for in this act to be conducted on
2 premises which have been licensed for the sale of liquor,
3 beer, food, cigarettes, or any other consumable products.
4 Within the cities or towns, such licenses may be issued by
5 the city or town council or ~~commission~~. Licenses for games
6 conducted on premises outside the limits of any city or town
7 may be issued by the county commissioners of the respective
8 counties. When a license has been required by any city,
9 town, or county, no ~~gambling~~ game as provided for in this
10 act shall be conducted on any premises which have been
11 licensed for the sale of liquor, beer, food, cigarettes, or
12 any other consumable product without such license having
13 first been obtained.

14 (2) Any governing body may charge an annual license
15 fee for each license so issued under this act, which license
16 fee, if any, shall expire on June 30 of each year, and such
17 fee shall be prorated.

18 (3) Any license issued pursuant to this act shall be
19 deemed to be a revocable privilege, and no holder thereof
20 ~~shall may~~ acquire any vested rights therein or thereunder."

21 Section 3. Section 62-708, R.C.M. 1947, is amended to
22 read as follows:

23 "62-708. Governing body may establish regulations. The
24 governing body authorized to issue gambling licenses
25 pursuant to this act ~~shall have the authority to may~~

1 establish by ordinance or resolution, regulations governing
 2 the qualifications for and the issuing, suspension, and
 3 revocation of such gambling licenses. These regulations, in
 4 addition to any other requirements, shall provide that no
 5 license shall may be issued to:

6 ~~1-~~(1) A a person who has been convicted of being the
 7 keeper or is keeping a house of ~~ill fame~~ prostitution;

8 ~~2-~~(2) A a person who has been convicted of pandering
 9 or other crime or misdemeanor opposed to decency and
 10 morality, under the laws of the federal government or any
 11 state of the United States;

12 ~~3-~~(3) A a person whose license issued under this act
 13 has been revoked for cause;

14 ~~4-~~(4) A a person who at the time of application for
 15 renewal of any license issued hereunder would not be
 16 eligible for such license upon a first application;

17 ~~5-~~(5) A a person who is not a citizen of the United
 18 States and who has not been a resident of the state of
 19 Montana for at least ~~one~~ (1) year immediately preceding the
 20 filing of the application for license;

21 ~~6-~~(6) A a person who is not the owner and operator of
 22 the business. Additional regulations may also be adopted for
 23 the purpose of the protection of the public health, welfare,
 24 and safety of the citizens of the state of Montana and to
 25 assure compliance with the intent of this act."

1 Section 4. Section 62-709, R.C.M. 1947, is amended to
 2 read as follows:

3 "62-709. Minors may not participate. No person under
 4 the age of ~~eighteen~~ (18) years shall may be permitted to
 5 participate in any card game ~~or games of chance~~ held,
 6 operated, or conducted pursuant to this act."

7 Section 5. Section 62-710, R.C.M. 1947, is amended to
 8 read as follows:

9 "62-710. Cheating unlawful. It shall be unlawful to
 10 conduct or participate in a gambling card game authorized by
 11 this act ~~or any other gambling law~~ in any manner which
 12 results in cheating, misrepresentation, or other such
 13 disreputable tactics which distract from a fair and equal
 14 chance for all participants or which otherwise affects the
 15 outcome of the gambling game."

16 Section 6. Section 62-713, R.C.M. 1947, is amended to
 17 read as follows:

18 "62-713. ~~Venue~~ Jurisdiction. ~~Venue~~ Jurisdiction for
 19 all cases involving violations of this act is in the
 20 district court."

21 Section 7. There is a new R.C.M. section that reads as
 22 follows:

23 Bingo and raffles authorized. Conducting or
 24 participating in games of chance as defined in 62-716 and in
 25 accordance with the provisions of this act is lawful.

1 Section 8. Section 62-719, R.C.M. 1947, is amended to
2 read as follows:

3 "62-719. Local governing bodies may issue licenses.
4 (1) Any city, town, or county may issue licenses for the
5 ~~gambling~~ games of chance provided for in this act to be
6 conducted on premises which have been licensed for the sale
7 of liquor, beer, food, cigarettes, or any other consumable
8 products. Within the cities or towns, such licenses may be
9 issued by the city or town council or commission. Licenses
10 for games conducted on premises outside the limits of any
11 city or town may be issued by the county commissioners of
12 the respective counties. When a license has been required by
13 any city, town, or county, no ~~gambling~~ game of chance as
14 provided for in this act ~~shall~~ may be conducted on any
15 premises which have been licensed for the sale of liquor,
16 beer, food, cigarettes, or any other consumable product
17 without such license having first been obtained.

18 (2) Any governing body may charge an annual license
19 fee for each license so issued under this act, which license
20 fee, if any, shall expire on June 30 of each year, and such
21 fee shall be prorated.

22 (3) Any license issued pursuant to this act shall be
23 ~~deemed~~ considered to be a revocable privilege, and no holder
24 thereof ~~shall~~ may acquire any vested rights therein or
25 thereunder."

1 Section 9. Section 62-720, R.C.M. 1947, is amended to
2 read as follows:

3 "62-720. Governing body may establish regulations. (1)
4 The governing body authorized to issue gambling licenses
5 pursuant to this act ~~shall have the authority to~~ may
6 establish by ordinance or resolution regulations governing
7 the qualifications for the ~~issuing~~ issuance, suspension, and
8 revocation of such gambling licenses. These regulations, in
9 addition to any other requirements, shall provide that no
10 license ~~shall~~ may be issued to:

11 ~~(1)(a)~~ (a) a person who has been convicted of being the
12 keeper or is keeping a house of ~~ill-fame~~ prostitution;

13 ~~(2)(b)~~ (b) a person who has been convicted of pandering
14 or other crime or misdemeanor opposed to decency and
15 morality, under the laws of the federal government or any
16 state of the United States;

17 ~~(3)(c)~~ (c) a person whose license issued under this act
18 has been revoked for cause;

19 ~~(4)(d)~~ (d) a person who at the time of application for
20 renewal of any license issued hereunder would not be
21 eligible for such license upon a first application;

22 ~~(5)(e)~~ (e) a person who is not a citizen of the United
23 States and who has not been a resident of the state of
24 Montana for at least ~~one~~ (1) year immediately preceding the
25 filing of the application for license;

1 ~~(6)(f)~~ * a person who is not the owner and operator of
2 the business.

3 (2) Additional regulations may also be adopted for the
4 purpose of the protection of the public health, welfare and
5 safety of the citizens of the state of Montana and to assure
6 compliance with the intent of this act."

7 Section 10. Section 62-724, R.C.M. 1947, is amended to
8 read as follows:

9 "62-724. Gambling on cash basis. (1) In every ~~gambling~~
10 ~~game of chance conducted pursuant to any gambling law of the~~
11 ~~state~~ the consideration paid for the chance to play shall be
12 strictly cash. Every participant must present the money with
13 which he intends to play the ~~gambling~~ game at the time the
14 game is played. No check, credit card, note, ~~I.O.U.~~ I.O.U. or
15 other evidence of indebtedness shall be offered or accepted
16 as part of the price of participation in ~~a gambling such~~
17 ~~game or as payment of a gambling debt incurred therein.~~

18 (2) No action based on such a ~~gambling~~ debt is
19 maintainable in a court of this state."

20 Section 11. Section 62-725, R.C.M. 1947, is amended to
21 read as follows:

22 "62-725. Cheating unlawful. It shall be unlawful to
23 conduct or participate in a ~~gambling~~ game of chance
24 authorized by this act ~~or any other gambling law~~ in any
25 manner which results in cheating, misrepresentation, or

1 other such disreputable tactics which distract from a fair
2 and equal chance for all participants or which otherwise
3 affects the outcome of the ~~gambling~~ game."

4 Section 12. There is a new R.C.M. section that reads
5 as follows:

6 Sports pools authorized. Conducting or participating in
7 sports pools as defined and governed in this act is lawful.

8 Section 13. Section 62-729, R.C.M. 1947, is amended to
9 read as follows:

10 "62-729. Gambling on cash basis. (1) In every ~~gambling~~
11 ~~game conducted pursuant to any gambling law of the state~~
12 sports pool the consideration paid for the chance to play
13 shall be strictly cash. Every participant must present the
14 money with which he intends to play ~~the gambling game~~ at the
15 time the game pool is ~~played entered~~. No check, credit card,
16 note, ~~I.O.U.~~ I.O.U. or other evidence of indebtedness shall be
17 offered or accepted as part of the price of participating in
18 a ~~gambling game or as payment of a gambling debt pool.~~

19 (2) No action based on a ~~gambling~~ debt incurred in a
20 sports pool is maintainable in a court of this state."

21 Section 14. Section 62-730, R.C.M. 1947, is amended to
22 read as follows:

23 "62-730. Minors may not participate. No person under
24 the age of ~~eighteen~~ (18) years shall may be permitted to
25 participate in any ~~game or games of chance~~ sports pool held,

1 operated, or conducted pursuant to this act."

2 Section 15. Section 62-731, R.C.M. 1947, is amended to
3 read as follows:

4 "62-731. Cheating unlawful. It shall be unlawful to
5 conduct or participate in a ~~gambling game~~ sports pool
6 authorized by this act ~~or any other gambling law~~ in any
7 manner which results in cheating, misrepresentation, or
8 other such disreputable tactics which distract from a fair
9 and equal chance for all participants or which otherwise
10 affects the outcome of the ~~gambling game pool~~."

11 Section 16. Section 62-735, R.C.M. 1947, is amended to
12 read as follows:

13 "62-735. ~~Venue Jurisdiction. Venue Jurisdiction~~ for all
14 violations of this act is in the district court."

15 Section 17. Section 94-8-301, R.C.M. 1947, is amended
16 to read as follows:

17 "94-8-301. Lottery defined. A lottery is any scheme
18 for the disposal or distribution of property by chance,
19 among persons who have paid or promised to pay any valuable
20 consideration for the chance of obtaining such property or a
21 portion of it, or for any share or interest in such
22 property, upon any agreement, understanding, or expectation
23 that it is to be distributed or disposed of by lot or
24 chance, whether called a lottery, ~~raffle~~, or gift
25 enterprise, or by whatever name the same may be known."

1 Section 18. Section 94-8-302, R.C.M. 1947, is amended
2 to read as follows:

3 "94-8-302. ~~Drawings for prizes or premiums not~~
4 ~~contemplated by act, when Application.~~ This ~~act part~~ shall
5 not apply to the provisions of 62-715 through 62-726 or to
6 the giving away of cash or merchandise attendance prizes or
7 premiums by public drawings at agricultural fairs or rodeo
8 associations in this state, and the county fair
9 commissioners of agricultural fairs or rodeo associations in
10 this state may give away at such fairs cash or merchandise
11 attendance prizes or premiums by public drawings."

12 Section 19. Section 94-8-401, R.C.M. 1947, is amended
13 to read as follows:

14 "94-8-401. ~~Gambling games prohibited — penalty —~~
15 ~~license fees for card tables. Every person who deals, or~~
16 ~~carries on, opens or causes to be opened, or who conducts,~~
17 ~~or causes to be conducted, operates or runs, either as~~
18 ~~principal, agent, owner or employee, whether for hire, or~~
19 ~~not, any game of monte, dondo, fan tan, tan, studhorse~~
20 ~~poker, craps, seven and a half, twenty one, Faro, roulette,~~
21 ~~pangani or pangene, hekey pokey, draw poker, or the game~~
22 ~~commonly known as round the table poker, or any banking or~~
23 ~~percentage game, or any game commonly known as sure thing~~
24 ~~game, or any game of chance played with cards, dice or any~~
25 ~~device whatsoever, or who runs or conducts or causes to be~~

~~run or conducted, or keeps any slot machine, punchboard, or
 other similar machine or device, or permits the same to be
 run or conducted for money, checks, credits, or any
 representative of value, or any property or thing
 whatsoever, or any person owning or in charge of any cigar
 store, drugstore, or other place of business, or any place
 where drinks are sold or served, who permits any of the
 games prohibited in this section to be played, in or about
 such cigar store, drugstore, or other place of business, or
 permits any slot machine, punchboard, or similar device to
 be kept therein, or any person or persons who conduct any
 bucketshop where stocks or securities of any kind are sold
 on margins, and every person who plays or bets at or against
 said prohibited games or devices, except as hereinafter
 provided, is guilty of a misdemeanor and shall be punishable
 by a fine of not less than one hundred dollars (\$100.00),
 nor more than one thousand dollars (\$1,000.00), and may be
 imprisoned for not less than three (3) months, nor more than
 one (1) year, or by both such fine and imprisonment,
 provided, however, that it shall be lawful for cigar
 stores, fraternal organizations, charitable organizations,
 drugstores and other places of business, upon the payment of
 a license fee therefor to the county treasurer in the sum of
 ten dollars (\$10.00) annually per table used or operated in
 such place of business, to maintain and keep for the use and~~

~~pleasure of their customers and patrons, card tables and
 cards with which and at which such games as rummy, whist,
 bridge whist, blackjack, euchre, pinochle, pangené or
 pangení, seven up, hearts, freewheel, casino, soler,
 cribbage, five hundred, penic ante, dominos, high five and
 checkers may be played for pastime and amusement by
 customers who are not minors, and for the maintenance of
 which a charge may be made, to be paid by the users by the
 purchase of trade checks which must be redeemable in
 merchandise at the going retail price of such merchandise,
 which is the stock in trade of such business, and that
 places of business may, upon the payment of a license fee
 therefor to the county treasurer in the sum of ten dollars
 (\$10.00) annually, exhibit for use and sale to all customers
 not minors, trade stimulators, such as pull boards and
 ticket boards, where each board so used returns to the owner
 or business not to exceed the going retail price of the
 goods disposed of and sold and disposed of through the use
 of the same, and which goods sold and disposed of through
 the use of the same must not be other than the goods
 constituting the usual stock in trade of the business using
 the same.] Except as otherwise provided by law, a person who
engages in gambling in any form with cards, dice, or other
implements or devices of any kind wherein anything valuable
is wagered upon the outcome or who keeps any establishment,~~

1 place, equipment, or apparatus for such gambling or any
 2 agents or employees for such purpose is guilty of a
 3 misdemeanor and is punishable by a fine of not less than
 4 \$100 or more than \$1,000 or imprisonment not less than 3
 5 months or more than 1 year or by both such fine and
 6 imprisonment."

7 Section 20. Section 94-8-404, R.C.M. 1947, is amended
 8 to read as follows:

9 "94-8-404. Possession of gambling implements
 10 prohibited. Any person who has in his possession, or under
 11 his control, or who permits to be placed, maintained, or
 12 kept in any room, space, inclosure, or building, owned,
 13 leased, or occupied by him, or under his management or
 14 control, any faro box, faro layout, roulette wheel, roulette
 15 table, crap table, ~~slot machine,~~ or any machine or apparatus
 16 of the kind mentioned in ~~the preceding section of this act,~~
 17 94-8-401 is punishable by a fine of not less than ~~one~~
 18 hundred nor \$100 or more than one thousand dollars, \$1,000
 19 and may be imprisoned for not less than ~~three~~ 3 months ~~or~~
 20 or more than one 1 year in the discretion of the court,
 21 provided, ~~however,~~ that this section shall not apply to a
 22 public officer, or to a person coming into possession
 23 thereof in or by reason of the performance of an official
 24 duty and holding the same to be disposed of according to
 25 law."

1 Section 21. Section 94-8-411, R.C.M. 1947, is amended
 2 to read as follows:

3 "94-8-411. Duty of magistrate to retain gambling
 4 implement or apparatus for trial. The magistrate before whom
 5 any machine, apparatus, or instrument is brought pursuant to
 6 ~~the preceding section 94-8-410~~ must, if there ~~be~~ is a
 7 prisoner and if he ~~shall hold~~ holds such prisoner, cause the
 8 machine, apparatus, or instrument to be delivered to the
 9 county attorney to be used as evidence on the trial of such
 10 prisoner. If there ~~be~~ is no prisoner, or if the magistrate
 11 does not hold the prisoner, ~~he~~ the magistrate must cause the
 12 immediate and public destruction of the machine, apparatus,
 13 or instrument in ~~the~~ his own presence ~~of said magistrate.~~ No
 14 person owning or claiming to own any such machine,
 15 apparatus, or instrument so destroyed, ~~shall have~~ has any
 16 right of action against any person or against the state,
 17 county, or city for the value of such article, or for
 18 damages. It ~~shall be~~ is the duty of the county attorney to
 19 produce such articles in court on the trial of the case. It
 20 ~~shall be~~ is the duty of the trial court, after the
 21 disposition of the case, and whether the defendant ~~be~~ is
 22 convicted, acquitted, or fails to appear for trial, to cause
 23 the immediate and public destruction of any such article by
 24 the sheriff or any other officer or person designated by the
 25 court."

1 Section 22. Section 94-8-413, R.C.M. 1947, is amended
2 to read as follows:

3 "94-8-413. Authority to break and enter buildings
4 where games are probably being played. Every sheriff,
5 constable and public peace officer, having probable cause to
6 believe that any room, tent, or apartment is being used as a
7 room, tent, or apartment for the playing or conducting of
8 any of the games mentioned in this act, ~~shall have authority~~
9 ~~to may~~ break open any door, or opening into any such room,
10 tent, or apartment, with or without a warrant of arrest, for
11 the purpose of arresting the offenders against this act."

12 Section 23. Section 94-8-422, R.C.M. 1947, is amended
13 to read as follows:

14 "94-8-422. Lessor of buildings used for gambling
15 purposes treated as principal. Whenever premises are
16 occupied for the doing of any of the things, or running any
17 of the games prohibited by this ~~act~~ part, the lease or
18 agreement under which they are so occupied shall be
19 absolutely void at the instance of the lessor, who may at
20 any time obtain possession by civil action, or by action of
21 ~~forcible unlawful~~ detainer, ~~and if~~ If any person ~~lease~~
22 leases premises for any such purpose, or knowingly permits
23 them to be used or occupied for such purpose or purposes,
24 or, knowing them to be so occupied or used, fails
25 immediately to prosecute, in good faith an action or

1 proceeding for the recovery of the premises, such lessor
2 shall be considered in all cases, civil and criminal, as a
3 principal in running the games or doing the things run or
4 done in such building, in violation of this ~~act~~ part, and
5 shall be dealt with and punished accordingly."

6 Section 24. Section 94-8-424, R.C.M. 1947, is amended
7 to read as follows:

8 "94-8-424. Ordinances concerning gambling in conflict
9 ~~with this act void. Upon the passage of this act, all~~
10 ~~ordinances and parts of ordinances of cities and towns in~~
11 ~~this state regarding gambling and gambling houses shall be~~
12 ~~inoperative and void, and thereafter no~~ No ordinance
13 regarding gambling or gambling houses ~~shall may~~ be passed by
14 any city or town except in compliance with 62-701 through
15 62-736."

16 Section 25. Section 94-8-429, R.C.M. 1947, is amended
17 to read as follows:

18 "94-8-429. Slot machine defined. A slot machine is
19 ~~hereby~~ defined as a machine operated by inserting a coin,
20 token, chip, ~~or~~ trade check, or paper currency therein by
21 the player and from the play of which he obtains, or may
22 obtain, money, checks, chips, ~~or~~ tokens, or paper currency
23 redeemable in money. Merchandise vending machines where the
24 element of chance does not enter into their operation are
25 not within the provisions of this ~~act~~ part."

1 Section 26. Section 94-8-430, R.C.M. 1947, is amended
2 to read as follows:

3 "94-8-430. Person or persons defined. In addition to
4 their ordinary meaning, the word "person" or "persons," as
5 used in this ~~act part, shall include~~ includes both natural
6 and artificial persons and all partnerships, corporations,
7 associations, clubs, fraternal orders, and societies,
8 including religious, fraternal, and charitable
9 organizations."

10 Section 27. Repealer. Sections 84-5703 through
11 84-5719, 94-8-402, 94-8-403, 94-8-425, 94-8-426, and
12 94-8-427, R.C.M. 1947, are repealed.

-End-

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LC 0007

1977 Legislature
Code Commissioner Bill - Summary

Senate Bill No. 9

FOR THE GENERAL REVISION OF LAWS RELATING TO GAMBLING

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 62-706. "Gambling games" is undefined in the code, and it is unclear as to what it applies, especially since the term is used loosely with respect to all three types of authorized games, i.e., card games, bingo and raffles, and sports pools. Because each of the three acts establishing the above authorized games is an autonomous unit and sections in each act exactly duplicate sections in the other acts, it was felt that it would be best to replace "gambling games" with the respective game concerned, each of which is specifically defined in its respective act. Then there could be no confusion as to the definition of "gambling game", and the sections would not appear to merely duplicate each other. Hence "gambling game" in this section is changed to "authorized card game".

Section 2. 62-707. Same change as in section 1.

Section 3. 62-708. Changed "house of ill fame", which is undefined in the code, to "house of prostitution", prostitution being defined in the criminal code.

Section 4. 62-709. Same change as section 1.

Section 5. 62-710. Same change as section 1.

Section 6. 62-713. Changed "venue" to "jurisdiction" to correct apparent error.

Section 7. The act concerning bingo and raffles defines those games and specifies how they shall be conducted, implying that such games are authorized. However, nowhere does the law say specifically that such games are authorized. This new section gives such authorization.

Section 8. 62-719. Changed "gambling games" to "games of chance", defined in 62-716 as bingo or raffles. See explanation of section 1.

Section 9. 62-720. Changed "house of ill fame" to "house of prostitution". See section 3 explanation.

Section 10. 62-724. Changed "gambling game" to "games of chance". See section 1 explanation.

Section 11. 62-725. Changed "gambling game" to "game of chance". See section 1 explanation.

Section 12. Just as bingo and raffles are not specifically authorized, neither are sports pools specifically authorized. This new section gives that authority.

Section 13. 62-729. Changed "gambling game" to "sports pool". See section 1 explanation.

Section 14. 62-730. Changed "gambling game" to "sports pool". See section 1 explanation.

Section 15. 62-731. Changed "gambling game" to "sports pool". See section 1 explanation.

Section 16. 62-735. Changed "venue" to "jurisdiction" to correct apparent error.

Section 17. 94-8-301. Since raffles are specifically authorized in 62-715 through 62-726, the reference in this section to "raffles" has been deleted, even though lottery, which means the same thing, has been left. This change is not all-important, as 94-8-302 is being amended to specifically exempt the games under the bingo and raffles act from the category of illegal lotteries under 94-8-301 et. seq. However, such change might avoid possible argument over the legal definition of a "raffle" -- whether a raffle is that defined in 62-716(1)(b) or 94-8-301. The definitions are basically consistent.

Section 18. 94-8-302. Amended this section to specifically exclude 62-715 through 62-726, the bingo and raffles act, from the application of the illegal lotteries act, and also changed this "act" (Ch. 36, L. 1935) to this "part"

(94-8-301 et. seq.). 94-8-302 was not part of the same act as the other sections in the part, however the exemptions it creates are definitely exemptions from the rest of the part. This is indicated in that 94-8-301 was amended in the same bill in which 94-8-302 was enacted, showing that this "part", rather than that 1935 act, was intended.

Section 19. 94-8-401. This is an 1895 statute which has been superseded to some degree by a later slot machine act (94-8-428 through 94-8-431) and by the authorized card games act (62-703(2)). Much of the section (that section in brackets) has been held unconstitutional under the 1889 constitution prohibiting gambling. Under Woodahl v. District Court, 511 P.2d 318, 162 Mont. 283 (1973) it is not revived by enactment of new constitution which would permit such gambling. Grammatically the section is a nightmare. A completely rewritten version is offered, which is a blanket prohibition of gambling with the exception of those games otherwise authorized by law. Although greatly simplified, this is basically the status of the law at the present time, albeit by implication, with the authorized card games act being given effect as an exception to 94-8-401.

Should the legislature not desire to rewrite the section the following changes at least are needed:

- a) An exception clause to exempt 62-701 through 62-736 should be added.
- b) The references to studhorse poker, pangeni, or pangene, draw poker, round the table poker, and slot machines should be deleted. (See 62-703(2), 94-8-428 through 94-8-431.)
- c) The material in brackets should be deleted.

Section 20. 94-8-404. The reference to slot machines has been deleted, since 94-8-428 through 94-8-431 supersedes.

Section 21. 94-8-411. The second sentence is ambiguous as to who is to destroy the gambling apparatus, whether the magistrate, the county attorney, or the former prisoner. Apparently the "he" refers to "the magistrate", as any destruction of property should be done only at the order of a court. Changed "he" to "the magistrate".

Section 22. 94-8-413. Amended "public officer", which is undefined, to "peace officer", defined in 94-2-101(43). As indicated in 94-8410 a "public officer" seems to be one authorized to make arrests - hence equivalent to our current "peace officer".

Section 23. 94-8-422. The reference to "forcible detainer" appears inappropriate in light of 93-9702 which defines "forcible detainer" as the forceful or violent unlawful keeping of property. The appropriate reference seems to be "unlawful detainer", as defined in 93-9703. The section is amended accordingly.

Section 24. 94-8-424. The first half of the section is temporary and will not be recodified. The last half, which precludes city ordinances regarding gambling needs a proviso or exception in the case of card games, bingo, or raffles authorized by 62-701 through 62-726 since sections 62-707, 62-708, 62-719 and 62-720 authorize cities to license and regulate those gambling activities.

Section 25. 94-8-429. Definition of slot machine is amended to include a machine operated by inserting paper currency as well as the "coin, token, chip, or trade check" mentioned in the section now.

Section 26. 94-8-430. Changed "act" to "part" to make definition of "person" apply to entire part (94-8-401 et. seq.) rather than to 94-8-428 through 94-8-431, the sections which comprise "this act".

Section 27. Repealers.

84-5703 through 84-5717. These statutes authorizing taxation of punch board and trade stimulators were declared unconstitutional in State v. Tursch, 127 Mont. 504. The sections are specifically repealed.

84-5718, 84-5719. These sections refer to 84-5701 and 84-5702 which have been repealed. The sections have no application.

94-8-402, 94-8-403. These sections (and the part of 94-8-401 in brackets) were part of a 1937 act enacted under the old Montana Constitution prohibiting gambling. The act was declared unconstitutional in State ex rel Harrison v. Denniff, 126 Mont. 109 (1952). The legislature, however, refused or neglected to specifically repeal these sections. In 1973 it was argued in Woodahl v. District Court, 162 Mont. 283 (1973), that the new 1972 Constitution, in permitting gambling under certain circumstances operated to revive these sections formerly declared unconstitutional but remaining in the code. The Montana Supreme Court refused to buy the argument and held the statutes forever void. The change in the constitution did not revive the statutes. Hence the legislature should affirmatively clean these old statutes out of the code. If desired, new laws could, of course, be passed under the 1972 constitution to replace these old laws.

94-8-425, 94-8-426, 94-8-427. These sections state who is deemed a principal and provide a penalty and effective date for a 1909 law (later reenacted in 1915) which prohibited certain reporting, recording, or registering of bets or wagers on the outcome of any contest of speed or skill or endurance of any animal. The substance of this law has long since been repealed, but these sections were apparently overlooked.

It seems clear that the sections have no application to the current laws on gambling. First of all, the very language in each section, referring to "this act", when read with the section history, would reveal "this act" to be chapter 20, Laws 1909, and later chapter 55, Laws 1915. It could be argued that by reenactment in the 1921 recodification, or redesignation in the 1973 criminal code these sections were in effect reenacted and made applicable to all other sections reenacted or redesignated at the same time, i.e., the rest of the gambling laws. However, it is plain that the legislature did not consciously so intend. The language in 94-8-425 ". . . for the purpose of having bets or wagers made or reported or recorded or registered . . ." makes it clear that this section could only apply to the original act prohibiting such reporting or recording or registering. Also, each of the sections in 94-8-401 et. seq. which prohibits certain activity carries its own penalty provision, hence 94-8-426 cannot possibly be construed to be a general penalty provision applying to the entire part. And 94-8-427, providing for an immediate effective date, is in hopeless conflict with section 33, chapter 513, Laws 1973, providing an effective date for the criminal code of January 1, 1974.

These sections therefore, having no current application, are repealed.

Approved by Committee
on Judiciary

1 SENATE BILL NO. 9
 2 INTRODUCED BY GRAHAM
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
 5 REVISION OF LAWS RELATING TO GAMBLING."
 6
 7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 8 Section 1. Section 62-706, R.C.M. 1947, is amended to
 9 read as follows:
 10 "62-706. Gambling on cash basis. (1) In every ~~gambling~~
 11 ~~game conducted pursuant to any gambling law of the state~~
 12 authorized card game the consideration paid for the chance
 13 to play shall be strictly cash. Every participant must
 14 present the money with which he intends to play the ~~gambling~~
 15 game at the time the game is played. No check, credit card,
 16 note, ~~I.O.U.~~ IOU, or other evidence of indebtedness ~~shall~~
 17 may be offered or accepted as part of the price of
 18 participating in a gambling card game or as payment of a
 19 gambling debt incurred therein.
 20 (2) No action based on such a ~~gambling~~ debt is
 21 maintainable in a court of this state."
 22 Section 2. Section 62-707, R.C.M. 1947, is amended to
 23 read as follows:
 24 "62-707. Local governing bodies may issue licenses.
 25 (1) Any city, town, or county may issue licenses for the

1 ~~gambling~~ games provided for in this act to be conducted on
 2 premises which have been licensed for the sale of liquor,
 3 beer, food, cigarettes, or any other consumable products.
 4 Within the cities or towns, such licenses may be issued by
 5 the city or town council or commission. Licenses for games
 6 conducted on premises outside the limits of any city or town
 7 may be issued by the county commissioners of the respective
 8 counties. When a license has been required by any city,
 9 town, or county, no ~~gambling~~ game as provided for in this
 10 act shall be conducted on any premises which have been
 11 licensed for the sale of liquor, beer, food, cigarettes, or
 12 any other consumable product without such license having
 13 first been obtained.
 14 (2) Any governing body may charge an annual license
 15 fee for each license so issued under this act, which license
 16 fee, if any, shall expire on June 30 of each year, and such
 17 fee shall be prorated.
 18 (3) Any license issued pursuant to this act shall be
 19 deemed to be a revocable privilege, and no holder thereof
 20 shall may acquire any vested rights therein or thereunder."
 21 Section 3. Section 62-708, R.C.M. 1947, is amended to
 22 read as follows:
 23 "62-708. Governing body may establish regulations. The
 24 governing body authorized to issue gambling licenses
 25 pursuant to this act ~~shall have the authority to may~~

1 establish by ordinance or resolution, regulations governing
2 the qualifications for and the issuing, suspension, and
3 revocation of such gambling licenses. These regulations, in
4 addition to any other requirements, shall provide that no
5 license shall may be issued to:

6 1- (1) * a person who has been convicted of being the
7 keeper or is keeping a house of ~~ill-fame~~ prostitution;

8 2- (2) * a person who has been convicted of pandering
9 or other crime or misdemeanor opposed to decency and
10 morality, under the laws of the federal government or any
11 state of the United States;

12 3- (3) * a person whose license issued under this act
13 has been revoked for cause;

14 4- (4) * a person who at the time of application for
15 renewal of any license issued hereunder would not be
16 eligible for such license upon a first application;

17 5- (5) * a person who is not a citizen of the United
18 States and who has not been a resident of the state of
19 Montana for at least ~~one~~ one year immediately preceding the
20 filing of the application for license;

21 6- (6) * a person who is not the owner and operator of
22 the business. Additional regulations may also be adopted for
23 the purpose of the protection of the public health, welfare,
24 and safety of the citizens of the state of Montana and to
25 assure compliance with the intent of this act."

1 Section 4. Section 62-709, R.C.M. 1947, is amended to
2 read as follows:

3 "62-709. Minors may not participate. No person under
4 the age of ~~eighteen~~ 18 years shall may be permitted to
5 participate in any card game ~~or games of chance~~ held,
6 operated, or conducted pursuant to this act."

7 Section 5. Section 62-710, R.C.M. 1947, is amended to
8 read as follows:

9 "62-710. Cheating unlawful. It shall be unlawful to
10 conduct or participate in a gambling card game authorized by
11 this act ~~or any other gambling law~~ in any manner which
12 results in cheating, misrepresentation, or other such
13 disreputable tactics which distract from a fair and equal
14 chance for all participants or which otherwise affects the
15 outcome of the gambling game."

16 Section 6. Section 62-713, R.C.M. 1947, is amended to
17 read as follows:

18 "62-713. ~~Venue~~ Jurisdiction, ~~Venue~~ Jurisdiction for
19 all cases involving violations of this act is in the
20 district court."

21 Section 7. There is a new R.C.M. section that reads as
22 follows:

23 Bingo and raffles authorized. Conducting or
24 participating in games of chance as defined in 62-716 and in
25 accordance with the provisions of this act is lawful.

1 Section 8. Section 62-719, R.C.M. 1947, is amended to
2 read as follows:

3 "62-719. Local governing bodies may issue licenses.
4 (1) Any city, town, or county may issue licenses for ~~the~~
5 ~~gambling~~ games of chance provided for in this act to be
6 conducted on premises which have been licensed for the sale
7 of liquor, beer, food, cigarettes, or any other consumable
8 products. Within the cities or towns, such licenses may be
9 issued by the city or town council or commission. Licenses
10 for games conducted on premises outside the limits of any
11 city or town may be issued by the county commissioners of
12 the respective counties. When a license has been required by
13 any city, town, or county, no ~~gambling~~ game of chance as
14 provided for in this act ~~shall~~ may be conducted on any
15 premises which have been licensed for the sale of liquor,
16 beer, food, cigarettes, or any other consumable product
17 without such license having first been obtained.

18 (2) Any governing body may charge an annual license
19 fee for each license so issued under this act, which license
20 fee, if any, shall expire on June 30 of each year, and such
21 fee shall be prorated.

22 (3) Any license issued pursuant to this act shall be
23 ~~deemed~~ considered to be a revocable privilege, and no holder
24 thereof ~~shall~~ may acquire any vested rights therein or
25 thereunder."

1 Section 9. Section 62-720, R.C.M. 1947, is amended to
2 read as follows:

3 "62-720. Governing body may establish regulations. (1)
4 The governing body authorized to issue gambling licenses
5 pursuant to this act ~~shall have the authority to~~ may
6 establish by ordinance or resolution regulations governing
7 the qualifications for the ~~issuing~~ issuance, suspension, and
8 revocation of such gambling licenses. These regulations, in
9 addition to any other requirements, shall provide that no
10 license ~~shall~~ may be issued to:

11 ~~(1)(a)~~ (a) a person who has been convicted of being the
12 keeper or is keeping a house of ~~ill fame~~ prostitution;

13 ~~(2)(b)~~ (b) a person who has been convicted of pandering
14 or other crime or misdemeanor opposed to decency and
15 morality, under the laws of the federal government or any
16 state of the United States;

17 ~~(3)(c)~~ (c) a person whose license issued under this act
18 has been revoked for cause;

19 ~~(4)(d)~~ (d) a person who at the time of application for
20 renewal of any license issued hereunder would not be
21 eligible for such license upon a first application;

22 ~~(5)(e)~~ (e) a person who is not a citizen of the United
23 States and who has not been a resident of the state of
24 Montana for at least ~~one~~ (1) year immediately preceding the
25 filing of the application for license;

1 ~~(6)(f)~~ A a person who is not the owner and operator of
2 the business.

3 (2) Additional regulations may also be adopted for the
4 purpose of the protection of the public health, welfare and
5 safety of the citizens of the state of Montana and to assure
6 compliance with the intent of this act."

7 Section 10. Section 62-724, R.C.M. 1947, is amended to
8 read as follows:

9 "62-724. Gambling on cash basis. (1) In every gambling
10 game of chance ~~conducted pursuant to any gambling law of the~~
11 ~~state~~ the consideration paid for the chance to play shall be
12 strictly cash. Every participant must present the money with
13 which he intends to play the gambling game at the time the
14 game is played. No check, credit card, note, ~~I.O.U.~~ IOU, or
15 other evidence of indebtedness shall be offered or accepted
16 as part of the price of participation in a gambling such
17 game or as payment of a gambling debt incurred therein.

18 (2) No action based on such a gambling debt is
19 maintainable in a court of this state."

20 Section 11. Section 62-725, R.C.M. 1947, is amended to
21 read as follows:

22 "62-725. Cheating unlawful. It shall be unlawful to
23 conduct or participate in a gambling game of chance
24 authorized by this act ~~or any other gambling law~~ in any
25 manner which results in cheating, misrepresentation, or

1 other such disreputable tactics which distract from a fair
2 and equal chance for all participants or which otherwise
3 affects the outcome of the gambling game."

4 Section 12. There is a new R.C.M. section that reads
5 as follows:

6 Sports pools authorized. Conducting or participating in
7 sports pools as defined and governed in this act is lawful.

8 Section 13. Section 62-729, R.C.M. 1947, is amended to
9 read as follows:

10 "62-729. Gambling on cash basis. (1) In every gambling
11 ~~game conducted pursuant to any gambling law of the state~~
12 sports pool the consideration paid for the chance to play
13 shall be strictly cash. Every participant must present the
14 money with which he intends to play ~~the gambling game~~ at the
15 time the game pool is ~~played~~ entered. No check, credit card,
16 note, ~~I.O.U.~~ IOU, or other evidence of indebtedness shall be
17 offered or accepted as part of the price of participating in
18 a ~~gambling game or as payment of a gambling debt pool~~.

19 (2) No action based on a gambling debt incurred in a
20 sports pool is maintainable in a court of this state."

21 Section 14. Section 62-730, R.C.M. 1947, is amended to
22 read as follows:

23 "62-730. Minors may not participate. No person under
24 the age of ~~eighteen~~ (18) years shall may be permitted to
25 participate in any ~~game or games of chance~~ sports pool held,

1 operated, or conducted pursuant to this act."

2 Section 15. Section 62-731, R.C.M. 1947, is amended to
3 read as follows:

4 "62-731. Cheating unlawful. It shall be unlawful to
5 conduct or participate in a ~~gambling game~~ sports pool
6 authorized by this act ~~or any other gambling law~~ in any
7 manner which results in cheating, misrepresentation, or
8 other such disreputable tactics which distract from a fair
9 and equal chance for all participants or which otherwise
10 affects the outcome of the ~~gambling game pool~~."

11 Section 16. Section 62-735, R.C.M. 1947, is amended to
12 read as follows:

13 "62-735. ~~Venue Jurisdiction. Venue Jurisdiction~~ for all
14 violations of this act is in the district court."

15 Section 17. Section 94-8-301, R.C.M. 1947, is amended
16 to read as follows:

17 "94-8-301. Lottery defined. A lottery is any scheme
18 for the disposal or distribution of property by chance,
19 among persons who have paid or promised to pay any valuable
20 consideration for the chance of obtaining such property or a
21 portion of it, or for any share or interest in such
22 property, upon any agreement, understanding, or expectation
23 that it is to be distributed or disposed of by lot or
24 chance, whether called a lottery, ~~raffle,~~ or gift
25 enterprise, or by whatever name the same may be known."

1 Section 18. Section 94-8-302, R.C.M. 1947, is amended
2 to read as follows:

3 "94-8-302. ~~Drawings for prizes or premiums not~~
4 ~~contemplated by act, when Application.~~ This ~~act part~~ shall
5 not apply to the provisions of 62-715 through 62-726 or to
6 the giving away of cash or merchandise attendance prizes or
7 premiums by public drawings at agricultural fairs or rodeo
8 associations in this state, and the county fair
9 commissioners of agricultural fairs or rodeo associations in
10 this state may give away at such fairs cash or merchandise
11 attendance prizes or premiums by public drawings."

12 Section 19. Section 94-8-401, R.C.M. 1947, is amended
13 to read as follows:

14 "94-8-401. ~~Gambling games prohibited — penalty —~~
15 ~~license fees for card tables. Every person who deals, or~~
16 ~~carries on, opens or causes to be opened, or who conducts,~~
17 ~~or causes to be conducted, operates or runs, either as~~
18 ~~principal, agent, owner or employee, whether for hire, or~~
19 ~~not, any game of monte, dondo, fan tan, tan, studhorse~~
20 ~~pokeni or pangene, hokey pokey, draw poker, or the game~~
21 ~~commonly known as round the table poker, or any banking or~~
22 ~~percentage game, or any game commonly known as sure thing~~
23 ~~game, or any game of chance played with cards, dice or any~~
24 ~~device whatsoever, or who runs or conducts or causes to be~~
25

~~run or conducted, or keeps any slot machine, punchboard, or
 other similar machine or device, or permits the same to be
 run or conducted for money, checks, credits, or any
 representative of value, or any property or thing
 whatsoever, or any person owning or in charge of any cigar
 store, drugstore, or other place of business, or any place
 where drinks are sold or served, who permits any of the
 games prohibited in this section to be played, in or about
 such cigar store, drugstore, or other place of business, or
 permits any slot machine, punchboard, or similar device to
 be kept therein, or any person or persons who conduct any
 bucketshop where stocks or securities of any kind are sold
 on margin, and every person who plays or bets at or against
 said prohibited games or devices, except as hereinafter
 provided, is guilty of a misdemeanor and shall be punishable
 by a fine of not less than one hundred dollars (\$100.00),
 nor more than one thousand dollars (\$1,000.00), and may be
 imprisoned for not less than three (3) months, nor more than
 one (1) year, or by both such fine and imprisonment,
 [provided, however that it shall be lawful for cigar
 stores, fraternal organizations, charitable organizations,
 drugstores and other places of business, upon the payment of
 a license fee therefor to the county treasurer in the sum of
 ten dollars (\$10.00) annually per table used or operated in
 such place of business, to maintain and keep for the use and~~

~~pleasure of their customers and patrons, card tables and
 cards with which and at which such games as rummy, whist,
 bridge whist, blackjack, euchre, pinochle, pangone or
 pangeni, seven up, hearts, freeze out, casino, soler,
 cribbage, five hundred, penic ante, dominos, high five and
 checkers may be played for pastime and amusement by
 customers who are not minors, and for the maintenance of
 which a charge may be made, to be paid by the users by the
 purchase of trade checks which must be redeemable in
 merchandise at the going retail price of such merchandise,
 which is the stock in trade of such business, and that
 places of business may, upon the payment of a license fee
 therefor to the county treasurer in the sum of ten dollars
 (\$10.00) annually, exhibit for use and sale to all customers
 not minors, trade stimulators, such as pull boards and
 ticket boards, where each board so used returns to the owner
 or business not to exceed the going retail price of the
 goods disposed of and sold and disposed of through the use
 of the same, and which goods sold and disposed of through
 the use of the same must not be other than the goods
 constituting the usual stock in trade of the business using
 the same.] Except as otherwise provided by law, a person who
 engages in gambling in any form with cards, dice, or other
 implements or devices of any kind wherein anything valuable
 is wagered upon the outcome or who keeps any establishment,~~

1 place, equipment, or apparatus for such gambling or any
 2 agents or employees for such purpose is guilty of a
 3 misdemeanor and is punishable by a fine of not less than
 4 \$100 or more than \$1,000 or imprisonment not less than 3
 5 months or more than 1 year or by both such fine and
 6 imprisonment."

7 Section 20. Section 94-8-404, R.C.M. 1947, is amended
 8 to read as follows:

9 "94-8-404. Possession of gambling implements
 10 prohibited. Any person who has in his possession, or under
 11 his control, or who permits to be placed, maintained, or
 12 kept in any room, space, inclosure, or building, owned,
 13 leased, or occupied by him, or under his management or
 14 control, any faro box, faro layout, roulette wheel, roulette
 15 table, crap table, ~~slot-machine,~~ or any machine or apparatus
 16 of the kind mentioned in ~~the preceding section of this act,~~
 17 94-8-401 is punishable by a fine of not less than ~~one~~
 18 ~~hundred nor \$100 or more than one thousand dollars,~~ \$1,000
 19 and may be imprisoned for not less than ~~three 3~~ months ~~or~~
 20 ~~or more than one 1~~ year in the discretion of the court, ~~and~~
 21 ~~provided, however,~~ that this section shall not apply to a
 22 public officer, or to a person coming into possession
 23 thereof in or by reason of the performance of an official
 24 duty and holding the same to be disposed of according to
 25 law."

1 Section 21. Section 94-8-411, R.C.M. 1947, is amended
 2 to read as follows:

3 "94-8-411. Duty of magistrate to retain gambling
 4 implement or apparatus for trial. The magistrate before whom
 5 any machine, apparatus, or instrument is brought pursuant to
 6 ~~the preceding section 94-8-510~~ must, if there ~~be is~~ a
 7 prisoner and if he ~~shall hold~~ holds such prisoner, cause the
 8 machine, apparatus, or instrument to be delivered to the
 9 county attorney to be used as evidence on the trial of such
 10 prisoner. If there ~~be is~~ no prisoner, or if the magistrate
 11 does not hold the prisoner, ~~he the magistrate~~ must cause the
 12 immediate and public destruction of the machine, apparatus,
 13 or instrument in ~~the his own~~ presence ~~of said magistrate.~~ No
 14 person owning or claiming to own any such machine,
 15 apparatus, or instrument so destroyed, ~~shall have~~ has any
 16 right of action against any person or against the state,
 17 county, or city for the value of such article, or for
 18 damages. It ~~shall be is~~ the duty of the county attorney to
 19 produce such articles in court on the trial of the case. It
 20 ~~shall be is~~ the duty of the trial court, after the
 21 disposition of the case, and whether the defendant ~~be is~~
 22 convicted, acquitted, or fails to appear for trial, to cause
 23 the immediate and public destruction of any such article by
 24 the sheriff or any other officer or person designated by the
 25 court."

1 Section 22. Section 94-8-413, R.C.M. 1947, is amended
2 to read as follows:

3 "94-8-413. Authority to break and enter buildings
4 where games are probably being played. Every sheriff,
5 constable and public peace officer, having probable cause to
6 believe that any room, tent, or apartment is being used as a
7 room, tent, or apartment for the playing or conducting of
8 any of the games mentioned in this act, shall have authority
9 to may break open any door, or opening into any such room,
10 tent, or apartment, with or without a warrant of arrest, for
11 the purpose of arresting the offenders against this act."

12 Section 22. Section 94-8-422, R.C.M. 1947, is amended
13 to read as follows:

14 "94-8-422. Lessor of buildings used for gambling
15 purposes treated as principal. Whenever premises are
16 occupied for the doing of any of the things, or running any
17 of the games prohibited by this act part, the lease or
18 agreement under which they are so occupied shall be
19 absolutely void at the instance of the lessor, who may at
20 any time obtain possession by civil action, or by action of
21 forcible unlawful detainer, and if if any person lease
22 leases premises for any such purpose, or knowingly permits
23 them to be used or occupied for such purpose or purposes,
24 or, knowing them to be so occupied or used, fails
25 immediately to prosecute, in good faith an action or

1 proceeding for the recovery of the premises, such lessor
2 shall be considered in all cases, civil and criminal, as a
3 principal in running the games or doing the things run or
4 done in such building, in violation of this act part, and
5 shall be dealt with and punished accordingly."

6 Section 23. Section 94-8-424, R.C.M. 1947, is amended
7 to read as follows:

8 "94-8-424. Ordinances concerning gambling in conflict
9 with this act void. Upon the passage of this act, all
10 ordinances and parts of ordinances of cities and towns in
11 this state regarding gambling and gambling houses shall be
12 inoperative and void, and thereafter no No ordinance
13 regarding gambling or gambling houses shall may be passed by
14 any city, or town, COUNTY, OR OTHER POLITICAL SUBDIVISION OF
15 THE STATE except in compliance with 62-701 through 62-736."

16 Section 24. Section 94-8-429, R.C.M. 1947, is amended
17 to read as follows:

18 "94-8-429. Slot machine defined. A slot machine is
19 hereby defined as a machine operated by inserting a coin,
20 token, chip, or trade check, or paper currency therein by
21 the player and from the play of which he obtains, or may
22 obtain, money, checks, chips, or tokens, or paper currency
23 redeemable in money. Merchandise vending machines where the
24 element of chance does not enter into their operation are
25 not within the provisions of this act part."

1 Section 25. Section 94-8-430, R.C.M. 1947, is amended
2 to read as follows:

3 "94-8-430. Person or persons defined. In addition to
4 their ordinary meaning, the word "person" or "persons," as
5 used in this ~~act part~~, ~~shall include~~ includes both natural
6 and artificial persons and all partnerships, corporations,
7 associations, clubs, fraternal orders, and societies,
8 including religious, fraternal, and charitable
9 organizations."

10 Section 26. Repealer. Sections 84-5703 through
11 84-5719, 94-8-402, 94-8-403, ~~94-8-413~~, 94-8-425, 94-8-426,
12 and 94-8-427, R.C.M. 1947, are repealed.

-End-

Approved by Committee
on Judiciary

SENATE BILL NO. 9
INTRODUCED BY GRAHAM

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
REVISION OF LAWS RELATING TO GAMBLING."

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

Section 1. Section 62-706, R.C.M. 1947, is amended to
read as follows:

"62-706. Gambling on cash basis. (1) In every ~~gambling~~
~~game conducted pursuant to any gambling law of the state~~
authorized card game the consideration paid for the chance
to play shall be strictly cash. Every participant must
present the money with which he intends to play the ~~gambling~~
game at the time the game is played. No check, credit card,
note, ~~I.O.U.~~ IOU, or other evidence of indebtedness ~~shall~~
may be offered or accepted as part of the price of
participating in a ~~gambling card~~ game or as payment of a
~~gambling debt incurred therein.~~

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

Section 2. Section 62-707, R.C.M. 1947, is amended to
read as follows:

"62-707. Local governing bodies may issue licenses.
(1) Any city, town, or county may issue licenses for the

~~gambling~~ games provided for in this act to be conducted on
premises which have been licensed for the sale of liquor,
beer, food, cigarettes, or any other consumable products.
Within the cities or towns, such licenses may be issued by
the city or town council or commission. Licenses for games
conducted on premises outside the limits of any city or town
may be issued by the county commissioners of the respective
counties. When a license has been required by any city,
town, or county, no ~~gambling~~ game as provided for in this
act shall be conducted on any premises which have been
licensed for the sale of liquor, beer, food, cigarettes, or
any other consumable product without such license having
first been obtained.

(2) Any governing body may charge an annual license
fee for each license so issued under this act, which license
fee, if any, shall expire on June 30 of each year, and such
fee shall be prorated.

(3) Any license issued pursuant to this act shall be
deemed to be a revocable privilege, and no holder thereof
~~shall may~~ acquire any vested rights therein or thereunder."

Section 3. Section 62-708, R.C.M. 1947, is amended to
read as follows:

"62-708. Governing body may establish regulations. The
governing body authorized to issue gambling licenses
pursuant to this act ~~shall have the authority to may~~

There are no changes in SB 9, and due to length will not
be rerun. Please refer to yellow copy for complete text.

HOUSE OF REPRESENTATIVES

March 22, 1977

HOUSE COMMITTEE ON JUDICIARY AMENDMENTS TO SENATE BILL 9

1. Amend page 4, section 7, line 25.

Following: "of"

Strike: "this act"

Insert: "62-715 through 62-726"

2. Amend page 8, section 12, line 7.

Following: "in"

Strike: "this act"

Insert: "62-727 through 62-736"

3. Amend page 12, section 19, line 25.

Following: line 24

Strike: "is"

Insert: "may be"

4. Amend page 13, section 20, line 15.

Following: "crap table,"

Insert: "punchboard,"

5. Amend page 17, section 25

Following: line 9

Insert: "Section 26. Section 94-8-431, R.C.M. 1947, is amended to read as follows:

94-8-431. Penalty for possession or permitting use of slot machine. Any person, partnership, club, society, fraternal order, corporation, ~~co-operative~~ cooperative association or any other person, individual, or organization who violates any of the provisions of this act, or who permits the use of any slot machine, as herein defined, on any place or premises owned, occupied, or controlled by him or it, ~~shall be~~ is guilty of a misdemeanor and ~~shall be~~ is punishable by a fine of not less than ~~one-hundred-dollars-(\$100-00)~~, ~~nor~~ or more than ~~five-hundred-dollars-(\$500-00)~~, \$1000 or by imprisonment in the county jail for not less than ~~thirty-(30)-days~~ 3 months ~~or more than six-(6)-months,~~ 1 year or by both such fine and imprisonment."

Renumber: subsequent section

AS AMENDED CONCURRED IN

SENATE BILL NO. 9
INTRODUCED BY GRAHAM

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
REVISION OF LAWS RELATING TO GAMBLING."

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

Section 1. Section 62-706, R.C.M. 1947, is amended to
read as follows:

"62-706. Gambling on cash basis. (1) In every gambling
~~game conducted pursuant to any gambling law of the state~~
~~authorized card game~~ the consideration paid for the chance
to play shall be strictly cash. Every participant must
present the money with which he intends to play the gambling
game at the time the game is played. No check, credit card,
note, ~~or other IOU~~, or other evidence of indebtedness shall
may be offered or accepted as part of the price of
participating in a gambling card game or as payment of a
gambling debt incurred therein.

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

Section 2. Section 62-707, R.C.M. 1947, is amended to
read as follows:

"62-707. Local governing bodies may issue licenses.
(1) Any city, town, or county may issue licenses for the

gambling games provided for in this act to be conducted on
premises which have been licensed for the sale of liquor,
beer, food, cigarettes, or any other consumable products.
Within the cities or towns, such licenses may be issued by
the city or town council or commission. Licenses for games
conducted on premises outside the limits of any city or town
may be issued by the county commissioners of the respective
counties. When a license has been required by any city,
town, or county, no gambling game as provided for in this
act shall be conducted on any premises which have been
licensed for the sale of liquor, beer, food, cigarettes, or
any other consumable product without such license having
first been obtained.

(2) Any governing body may charge an annual license
fee for each license so issued under this act, which license
fee, if any, shall expire on June 30 of each year, and such
fee shall be prorated.

(3) Any license issued pursuant to this act shall be
deemed to be a revocable privilege, and no holder thereof
shall may acquire any vested rights therein or thereunder."

Section 3. Section 62-708, R.C.M. 1947, is amended to
read as follows:

"62-708. Governing body may establish regulations. The
governing body authorized to issue gambling licenses
pursuant to this act shall have the authority to may

1 establish by ordinance or resolution, regulations governing
 2 the qualifications for and the issuing, suspension, and
 3 revocation of such gambling licenses. These regulations, in
 4 addition to any other requirements, shall provide that no
 5 license shall ~~be~~ may be issued to:

6 ~~1*(1)~~ * a person who has been convicted of being the
 7 keeper or is keeping a house of ~~the~~ prostitution;

8 ~~2*(2)~~ * a person who has been convicted of pandering
 9 or other crime or misdemeanor opposed to decency and
 10 morality, under the laws of the federal government or any
 11 state of the United States;

12 ~~3*(3)~~ * a person whose license issued under this act
 13 has been revoked for cause;

14 ~~4*(4)~~ * a person who at the time of application for
 15 renewal of any license issued hereunder would not be
 16 eligible for such license upon a first application;

17 ~~5*(5)~~ * a person who is not a citizen of the United
 18 States and who has not been a resident of the state of
 19 Montana for at least ~~one~~ (1) year immediately preceding the
 20 filing of the application for license;

21 ~~6*(6)~~ * a person who is not the owner and operator of
 22 the business. Additional regulations may also be adopted for
 23 the purpose of the protection of the public health, welfare,
 24 and safety of the citizens of the state of Montana and to
 25 assure compliance with the intent of this act."

1 Section 4. Section 62-709, R.C.M. 1947, is amended to
 2 read as follows:

3 "62-709. Minors ~~may~~ may not participate. No person under
 4 the age of ~~eighteen~~ (18) years shall ~~be~~ may be permitted to
 5 participate in any card game or--games--of-chance held,
 6 operated, or conducted pursuant to this act."

7 Section 5. Section 62-710, R.C.M. 1947, is amended to
 8 read as follows:

9 "62-710. Cheating unlawful. It shall be unlawful to
 10 conduct or participate in a gambling card game authorized by
 11 this act ~~or any other gambling law~~ in any manner which
 12 results in cheating, misrepresentation, or other such
 13 disreputable tactics which distract from a fair and equal
 14 chance for all participants or which otherwise affects the
 15 outcome of the gambling game."

16 Section 6. Section 62-713, R.C.M. 1947, is amended to
 17 read as follows:

18 "62-713. ~~Venue Jurisdiction~~ Venue Jurisdiction for
 19 all cases involving violations of this act is in the
 20 district court."

21 Section 7. There is a new R.C.M. section that reads as
 22 follows:

23 bingo and raffles authorized. Conducting or
 24 participating in games of chance as defined in 62-716 and in
 25 accordance with the provisions of this act is lawful.

1 Section 8. Section 62-719, R.C.M. 1947, is amended to
2 read as follows:

3 "62-719. Local governing bodies may issue licenses.
4 (1) Any city, town₁ or county may issue licenses for the
5 gambling games of chance provided for in this act to be
6 conducted on premises which have been licensed for the sale
7 of liquor, beer, food, cigarettes₁ or any other consumable
8 products. Within the cities or towns, such licenses may be
9 issued by the city or town council or commission. Licenses
10 for games conducted on premises outside the limits of any
11 city or town may be issued by the county commissioners of
12 the respective counties. When a license has been required by
13 any city, town₁ or county, no gambling game of chance as
14 provided for in this act ~~shall~~ may be conducted on any
15 premises which have been licensed for the sale of liquor,
16 beer, food, cigarettes₁ or any other consumable product
17 without such license having first been obtained.

18 (2) Any governing body may charge an annual license
19 fee for each license so issued under this act, which license
20 fee, if any₁ shall expire on June 30 of each year, and such
21 fee shall be prorated.

22 (3) Any license issued pursuant to this act shall be
23 deemed ~~considered~~ to be a revocable privilege, and no holder
24 thereof ~~shall~~ may acquire any vested rights therein or
25 thereunder."

1 Section 9. Section 62-720, R.C.M. 1947, is amended to
2 read as follows:

3 "62-720. Governing body may establish regulations. (1)
4 The governing body authorized to issue gambling licenses
5 pursuant to this act ~~shall have the authority to~~ may
6 establish by ordinance or resolution regulations governing
7 the qualifications for the ~~issuing~~ issuance, suspension₁ and
8 revocation of such gambling licenses. These regulations, in
9 addition to any other requirements, shall provide that no
10 license ~~shall~~ may be issued to:

11 ~~(1)(a)~~ (1)(a) A person who has been convicted of being the
12 keeper or is keeping a house of ~~it~~ it ~~for~~ for ~~prostitution~~ prostitution;

13 ~~(2)(b)~~ (2)(b) A person who has been convicted of pandering
14 or other crime or misdemeanor opposed to decency and
15 morality, under the laws of the federal government or any
16 state of the United States₁;

17 ~~(3)(c)~~ (3)(c) A person whose license issued under this act
18 has been revoked for cause₁;

19 ~~(4)(d)~~ (4)(d) A person who at the time of application for
20 renewal of any license issued hereunder would not be
21 eligible for such license upon a first application₁;

22 ~~(5)(e)~~ (5)(e) A person who is not a citizen of the United
23 States and who has not been a resident of the state of
24 Montana for at least ~~one~~ one ~~(1)~~ (1) year immediately preceding the
25 filing of the application for license₁;

1 ~~(1)~~ ~~is~~ a person who is not the owner and operator of
2 the business.

3 (2) Additional regulations may also be adopted for the
4 purpose of the protection of the public health, welfare and
5 safety of the citizens of the state of Montana and to assure
6 compliance with the intent of this act."

7 Section 10. Section 62-724, R.C.M. 1947, is amended to
8 read as follows:

9 "62-724. Gambling on cash basis. (1) In every gambling
10 game ~~of chance~~ ~~conducted pursuant to any gambling law of the~~
11 ~~state~~ the consideration paid for the chance to play shall be
12 strictly cash. Every participant must present the money with
13 which he intends to play the gambling game at the time the
14 game is played. No check, credit card, note, ~~or IOU~~, or
15 other evidence of indebtedness shall be offered or accepted
16 as part of the price of participation in a gambling ~~such~~
17 game or as payment of a gambling debt incurred therein.

18 (2) No action based on ~~such~~ a gambling debt is
19 maintainable in a court of this state."

20 Section 11. Section 62-725, R.C.M. 1947, is amended to
21 read as follows:

22 "62-725. Cheating unlawful. It shall be unlawful to
23 conduct or participate in a gambling game of chance
24 authorized by this act ~~or any other gambling law~~ in any
25 manner which results in cheating, misrepresentation, or

1 other such disreputable tactics which distract from a fair
2 and equal chance for all participants or which otherwise
3 affects the outcome of the gambling game."

4 Section 12. There is a new R.C.M. section that reads
5 as follows:

6 Sports pools authorized. Conducting or participating in
7 sports pools as defined and governed in this act is lawful.

8 Section 13. Section 62-729, R.C.M. 1947, is amended to
9 read as follows:

10 "62-729. Gambling on cash basis. (1) In every gambling
11 game ~~conducted pursuant to any gambling law of the state~~
12 sports pool the consideration paid for the chance to play
13 shall be strictly cash. Every participant must present the
14 money with which he intends to play ~~the gambling game~~ at the
15 time the game pool is played entered. No check, credit card,
16 note, ~~or IOU~~, or other evidence of indebtedness shall be
17 offered or accepted as part of the price of participating in
18 a ~~gambling game or as payment of a gambling debt pool~~.

19 (2) No action based on a gambling debt incurred in a
20 sports pool is maintainable in a court of this state."

21 Section 14. Section 62-730, R.C.M. 1947, is amended to
22 read as follows:

23 "62-730. Minors may not participate. No person under
24 the age of ~~eighteen~~ ~~(18)~~ years ~~shall~~ may be permitted to
25 participate in any ~~game or games of chance~~ sports pool held,

1 operated, or conducted pursuant to this act."

2 Section 15. Section 62-731, R.C.M. 1947, is amended to
3 read as follows:

4 "62-731. Cheating unlawful. It shall be unlawful to
5 conduct or participate in a ~~gambling game sports pool~~
6 authorized by this act ~~or any other gambling law~~ in any
7 manner which results in cheating, misrepresentation, or
8 other such disreputable tactics which distract from a fair
9 and equal chance for all participants or which otherwise
10 affects the outcome of the ~~gambling game pool~~."

11 Section 16. Section 62-735, R.C.M. 1947, is amended to
12 read as follows:

13 "62-735. Venue ~~Jurisdiction~~. Venue Jurisdiction for all
14 violations of this act is in the district court."

15 Section 17. Section 94-8-301, R.C.M. 1947, is amended
16 to read as follows:

17 "94-8-301. Lottery defined. A lottery is any scheme
18 for the disposal or distribution of property by chance,
19 among persons who have paid or promised to pay any valuable
20 consideration for the chance of obtaining such property or a
21 portion of it, or for any share or interest in such
22 property, upon any agreement, understanding, or expectation
23 that it is to be distributed or disposed of by lot or
24 chance, whether called a lottery, raffle, or gift
25 enterprise, or by whatever name the same may be known."

1 Section 18. Section 94-8-302, R.C.M. 1947, is amended
2 to read as follows:

3 "94-8-302. Drawings ~~for prizes or premiums not~~
4 ~~contemplated by act~~, when Application. This act ~~part~~ shall
5 not apply to the provisions of 62-715 through 62-726 or to
6 ~~the~~ giving away of cash or merchandise attendance prizes or
7 premiums by public drawings at agricultural fairs or rodeo
8 associations in this state, and the county fair
9 commissioners of agricultural fairs or rodeo associations in
10 this state may give away at such fairs cash or merchandise
11 attendance prizes or premiums by public drawings."

12 Section 19. Section 94-8-401, R.C.M. 1947, is amended
13 to read as follows:

14 "94-8-401. Gambling games prohibited -- penalty --
15 ~~license fees for card tables~~. Every person who ~~deals or~~
16 ~~carries on~~ opens or causes to be opened, or who conducts,
17 or causes to be conducted, operates or runs, either as
18 principal, agent, owner or employee, whether for hire or
19 not, any game of ~~monte, dandy, fan, tany, tany, studhorse,~~
20 ~~poker, crap, seven and a half, twenty one, faro, roulette,~~
21 ~~pangent, or pangent, hokey, pokey, draw poker, or the game~~
22 ~~commonly known as round the table poker, or any banking or~~
23 ~~percentage game, or any game commonly known as sure thing~~
24 ~~game, or any game of chance played with cards, dice, or any~~
25 ~~device whatsoever, or who runs or conducts or causes to be~~

1 run or conducted or keeps any slot machine punchboard or
 2 other similar machine or device or permits the same to be
 3 run or conducted for money checks credits or any
 4 representative of value or any property or thing
 5 whatsoever or any person owning or in charge of any cigar
 6 store drugstore or other place of business or any place
 7 where drinks are sold or served who permits any of the
 8 games prohibited in this section to be played in or about
 9 such cigar store drugstore or other place of business or
 10 permits any slot machine punchboard or similar device to
 11 be kept therein or any person or persons who conduct any
 12 bucketshop where stocks or securities of any kind are sold
 13 on margins and every person who plays or bets at or against
 14 said prohibited games or devices except as hereinafter
 15 provided is guilty of a misdemeanor and shall be punishable
 16 by a fine of not less than one hundred dollars (\$100.00)
 17 nor more than one thousand dollars (\$1,000.00) and may be
 18 imprisoned for not less than three (3) months nor more than
 19 one (1) year or by both such fine and imprisonment
 20 provided however that it shall be lawful for cigar
 21 stores fraternal organizations charitable organizations
 22 drugstores and other places of business upon the payment of
 23 a license fee therefor to the county treasurer in the sum of
 24 ten dollars (\$10.00) annually per table used or operated in
 25 such place of business to maintain and keep for the use and

1 pleasure of their customers and patrons card tables and
 2 cards with which and at which such games as rummy whist
 3 bridge whist blackjack euchre pinochle pangone or
 4 pangone seven up hearts freeze out casino soler
 5 cribbage five hundred penie ante dominos high five and
 6 checkers may be played for pastime and amusement by
 7 customers who are not minors and for the maintenance of
 8 which a charge may be made to be paid by the users by the
 9 purchase of trade checks which must be redeemable in
 10 merchandise at the going retail price of such merchandise
 11 which is the stock in trade of such business and that
 12 places of business may upon the payment of a license fee
 13 therefor to the county treasurer in the sum of ten dollars
 14 (\$10.00) annually exhibit for use and sale to all customers
 15 not minors trade stimulators such as putt boards and
 16 ticket boards where each board so used returns to the owner
 17 or business not to exceed the going retail price of the
 18 goods disposed of and sold and disposed of through the use
 19 of the same and which goods sold and disposed of through
 20 the use of the same must not be other than the goods
 21 constituting the usual stock in trade of the business using
 22 the same; except as otherwise provided by law a person who
 23 engages in gambling in any form with cards dice or other
 24 implements or devices of any kind wherein anything valuable
 25 is wagered upon the outcome or who keeps any establishment

1 ~~place, equipment, or apparatus for such gambling or any~~
 2 ~~agents or employees for such purpose is guilty of a~~
 3 ~~misdemeanor and is punishable by a fine of not less than~~
 4 ~~\$100 or more than \$1,000 or imprisonment not less than 3~~
 5 ~~months or more than 1 year or by both such fine and~~
 6 ~~imprisonment."~~

7 Section 20. Section 94-8-404, R.C.M. 1947, is amended
 8 to read as follows:

9 "94-8-404. Possession of gambling implements
 10 prohibited. Any person who has in his possession or under
 11 his control or who permits to be placed, maintained, or
 12 kept in any room, space, inclosure, or building owned,
 13 leased, or occupied by him or under his management or
 14 control, any faro box, faro layout, roulette wheel, roulette
 15 table, crap table, ~~slot-machine,~~ or any machine or apparatus
 16 of the kind mentioned in ~~the preceding section of this act,~~
 17 ~~94-8-401~~ is punishable by a fine of not less than one
 18 ~~hundred nor \$100 or more than one-thousand dollars,~~ \$1,000
 19 and may be imprisoned for not less than three 1 months nor
 20 ~~or~~ more than one 1 year in the discretion of the court, 1
 21 ~~provided, however,~~ that this section shall not apply to a
 22 public officer, or to a person coming into possession
 23 thereof in or by reason of the performance of an official
 24 duty and holding the same to be disposed of according to
 25 law."

1 Section 21. Section 94-8-411, R.C.M. 1947, is amended
 2 to read as follows:

3 "94-8-411. Duty of magistrate to retain gambling
 4 implement or apparatus for trial. The magistrate before whom
 5 any machine, apparatus, or instrument is brought pursuant to
 6 ~~the preceding section 94-8-410~~ must, if there be is a
 7 prisoner and if he ~~shall hold~~ holds such prisoner, cause the
 8 machine, apparatus, or instrument to be delivered to the
 9 county attorney to be used as evidence on the trial of such
 10 prisoner. If there be is no prisoner or if the magistrate
 11 does not hold the prisoner, ~~he the magistrate~~ must cause the
 12 immediate and public destruction of the machine, apparatus,
 13 or instrument in the his own presence of ~~said magistrate~~. No
 14 person owning or claiming to own any such machine,
 15 apparatus, or instrument so destroyed, ~~shall have~~ has any
 16 right of action against any person or against the state,
 17 county, or city for the value of such article, or for
 18 damages. It ~~shall be~~ is the duty of the county attorney to
 19 produce such articles in court on the trial of the case. It
 20 ~~shall be~~ is the duty of the trial court, after the
 21 disposition of the case, and whether the defendant be is
 22 convicted, acquitted, or fails to appear for trial, to cause
 23 the immediate and public destruction of any such article by
 24 the sheriff or any other officer or person designated by the
 25 court."

1 Section 22. ~~Section 94-8-413, R.C.M. 1947, is amended~~
2 ~~to read as follows:~~

3 ~~"94-8-413. Authority to break and enter buildings~~
4 ~~where games are probably being played. Every sheriff,~~
5 ~~constable and public peace officer, having probable cause to~~
6 ~~believe that any room, tent, or apartment is being used as a~~
7 ~~room, tent, or apartment for the playing or conducting of~~
8 ~~any of the games mentioned in this act, shall have authority~~
9 ~~to may break open any door, or opening into any such room,~~
10 ~~tent, or apartment, with or without a warrant of arrest, for~~
11 ~~the purpose of arresting the offenders against this act."~~

12 Section 22. Section 94-8-422, R.C.M. 1947, is amended
13 to read as follows:

14 "94-8-422. Lessor of buildings used for gambling
15 purposes treated as principal. Whenever premises are
16 occupied for the doing of any of the things, or running any
17 of the games prohibited by this act part, the lease or
18 agreement under which they are so occupied shall be
19 absolutely void at the instance of the lessor, who may at
20 any time obtain possession by civil action, or by action of
21 ~~forcible unlawful~~ detainer, ~~and if~~ If any person ~~lease~~
22 ~~leases~~ premises for any such purpose, or knowingly permits
23 them to be used or occupied for such purpose or purposes,
24 or, knowing them to be so occupied or used, fails
25 immediately to prosecute, in good faith an action or

1 proceeding for the recovery of the premises, such lessor
2 shall be considered in all cases, civil and criminal, as a
3 principal in running the games or doing the things run or
4 done in such building, in violation of this act part, and
5 shall be dealt with and punished accordingly."

6 Section 23. Section 94-8-424, R.C.M. 1947, is amended
7 to read as follows:

8 "94-8-424. Ordinances concerning gambling ~~in conflict~~
9 ~~with this act void. Upon the passage of this act, all~~
10 ~~ordinances and parts of ordinances of cities and towns in~~
11 ~~this state regarding gambling and gambling houses shall be~~
12 ~~inoperative and void, and thereafter no~~ no ordinance
13 regarding gambling or gambling houses shall may be passed by
14 any city, or town, COUNTY, OR OTHER POLITICAL SUBDIVISION OF
15 THE STATE except in compliance with 62-701 through 62-736."

16 Section 24. Section 94-8-429, R.C.M. 1947, is amended
17 to read as follows:

18 "94-8-429. Slot machine defined. A slot machine is
19 hereby defined as a machine operated by inserting a coin,
20 token, chip, or trade check, or paper currency therein by
21 the player and from the play of which he obtains, or may
22 obtain, money, checks, chips, or tokens, or paper currency
23 redeemable in money. Merchandise vending machines where the
24 element of chance does not enter into their operation are
25 not within the provisions of this act part."

1 Section 25. Section 94-8-430, R.C.M. 1947, is amended
2 to read as follows:

3 "94-8-430. Person or persons defined. In addition to
4 their ordinary meaning, the word "person" or "persons" as
5 used in this act ~~part~~, ~~shall include~~ includes both natural
6 and artificial persons and all partnerships, corporations,
7 associations, clubs, fraternal orders, and societies,
8 including religious, fraternal, and charitable
9 organizations."

10 Section 26. Repealer. Sections 84-5703 through
11 84-5719, 94-8-402, 94-8-403, ~~94-8-413~~, 94-8-425, 94-8-426,
12 and 94-8-427, R.C.M. 1947, are repealed.

-End-

1 SENATE BILL NO. 9

2 INTRODUCED BY GRAHAM

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
5 REVISION OF LAWS RELATING TO GAMBLING."

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 Section 1. Section 62-706, R.C.M. 1947, is amended to
9 read as follows:

10 "62-706. Gambling on cash basis. (1) In every gambling
11 ~~game conducted pursuant to any gambling law of the state~~
12 ~~authorized card game~~ the consideration paid for the chance
13 to play shall be strictly cash. Every participant must
14 present the money with which he intends to play the gambling
15 game at the time the game is played. No check, credit card,
16 note, ~~or IOU~~, or other evidence of indebtedness ~~shall~~
17 ~~may~~ be offered or accepted as part of the price of
18 participating in a gambling ~~card~~ game or as payment of a
19 gambling debt ~~incurred therein.~~

20 (2) No action based on ~~such~~ a gambling debt is
21 maintainable in a court of this state."

22 Section 2. Section 62-707, R.C.M. 1947, is amended to
23 read as follows:

24 "62-707. Local governing bodies may issue licenses.
25 (1) Any city, town, or county may issue licenses for the

1 gambling games provided for in this act to be conducted on
2 premises which have been licensed for the sale of liquor,
3 beer, food, cigarettes, or any other consumable products.
4 Within the cities or towns, such licenses may be issued by
5 the city or town council or commission. Licenses for games
6 conducted on premises outside the limits of any city or town
7 may be issued by the county commissioners of the respective
8 counties. When a license has been required by any city,
9 town, or county, no gambling game as provided for in this
10 act shall be conducted on any premises which have been
11 licensed for the sale of liquor, beer, food, cigarettes, or
12 any other consumable product without such license having
13 first been obtained.

14 (2) Any governing body may charge an annual license
15 fee for each license so issued under this act, which license
16 fee, if any, shall expire on June 30 of each year, and such
17 fee shall be prorated.

18 (3) Any license issued pursuant to this act shall be
19 deemed to be a revocable privilege, and no holder thereof
20 shall ~~may~~ acquire any vested rights therein or thereunder."

21 Section 3. Section 62-708, R.C.M. 1947, is amended to
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24 governing body authorized to issue gambling licenses
25 pursuant to this act ~~shall have the authority to may~~

REFERENCE, BILL
Second Printing

1 establish by ordinance or resolution, regulations governing
2 the qualifications for and the issuing, suspension, and
3 revocation of such gambling licenses. These regulations, in
4 addition to any other requirements, shall provide that no
5 license shall ~~may~~ be issued to:

6 ~~1w(1)~~ * a person who has been convicted of being the
7 keeper or is keeping a house of ~~+++fame~~ prostitution;

8 ~~2w(2)~~ * a person who has been convicted of pandering
9 or other crime or misdemeanor opposed to decency and
10 morality, under the laws of the federal government or any
11 state of the United States; ~~w~~

12 ~~3w(3)~~ * a person whose license issued under this act
13 has been revoked for cause; ~~w~~

14 ~~4w(4)~~ * a person who at the time of application for
15 renewal of any license issued hereunder would not be
16 eligible for such license upon a first application; ~~w~~

17 ~~5w(5)~~ * a person who is not a citizen of the United
18 States and who has not been a resident of the state of
19 Montana for at least ~~one--(1)~~ year immediately preceding the
20 filing of the application for license; ~~w~~

21 ~~6w(6)~~ * a person who is not the owner and operator of
22 the business. Additional regulations may also be adopted for
23 the purpose of the protection of the public health, welfare, ~~w~~
24 and safety of the citizens of the state of Montana and to
25 assure compliance with the intent of this act."

1 Section 4. Section 62-709, R.C.M. 1947, is amended to
2 read as follows:

3 "62-709. Minors may not participate. No person under
4 the age of eighteen--(18) years shall ~~may~~ be permitted to
5 participate in any card game or--games--of-chance held,
6 operated, or conducted pursuant to this act."

7 Section 5. Section 62-710, R.C.M. 1947, is amended to
8 read as follows:

9 "62-710. Cheating unlawful. It shall be unlawful to
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11 this act or--any--other--gambling--law in any manner which
12 results in cheating, misrepresentation, or other such
13 disreputable tactics which distract from a fair and equal
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22 follows:

23 Bingo and raffles authorized. Conducting or
24 participating in games of chance as defined in 62-716 and in
25 accordance with the provisions of ~~this act~~ 62-715 THROUGH

1 ~~62-726~~ is lawful.

2 Section 8. Section 62-719, R.C.M. 1947, is amended to
3 read as follows:

4 "62-719. Local governing bodies may issue licenses.

5 (1) Any city, town, or county may issue licenses for the
6 gambling games of chance provided for in this act to be
7 conducted on premises which have been licensed for the sale
8 of liquor, beer, food, cigarettes, or any other consumable
9 products. Within the cities or towns, such licenses may be
10 issued by the city or town council or commission. Licenses
11 for games conducted on premises outside the limits of any
12 city or town may be issued by the county commissioners of
13 the respective counties. When a license has been required by
14 any city, town, or county, no gambling game of chance as
15 provided for in this act shall may be conducted on any
16 premises which have been licensed for the sale of liquor,
17 beer, food, cigarettes, or any other consumable product
18 without such license having first been obtained.

19 (2) Any governing body may charge an annual license
20 fee for each license so issued under this act, which license
21 fee, if any, shall expire on June 30 of each year, and such
22 fee shall be prorated.

23 (3) Any license issued pursuant to this act shall be
24 deemed considered to be a revocable privilege, and no holder
25 thereof shall may acquire any vested rights therein or

1 thereunder."

2 Section 9. Section 62-720, R.C.M. 1947, is amended to
3 read as follows:

4 "62-720. Governing body may establish regulations. (1)
5 The governing body authorized to issue gambling licenses
6 pursuant to this act shall have the authority to may
7 establish by ordinance or resolution regulations governing
8 the qualifications for the issuing issuance, suspension, and
9 revocation of such gambling licenses. These regulations, in
10 addition to any other requirements, shall provide that no
11 license shall may be issued to:

12 (1)(a) A person who has been convicted of being the
13 keeper or is keeping a house of ~~it~~ fewer prostitution;

14 (2)(b) A person who has been convicted of pandering
15 or other crime or misdemeanor opposed to decency and
16 morality, under the laws of the federal government or any
17 state of the United States;

18 (3)(c) A person whose license issued under this act
19 has been revoked for cause;

20 (4)(d) A person who at the time of application for
21 renewal of any license issued hereunder would not be
22 eligible for such license upon a first application;

23 (5)(e) A person who is not a citizen of the United
24 States and who has not been a resident of the state of
25 Montana for at least one (1) year immediately preceding the

1 filing of the application for license;

2 ~~(6)(f)~~ A person who is not the owner and operator of
3 the business.

4 (2) Additional regulations may also be adopted for the
5 purpose of the protection of the public health, welfare and
6 safety of the citizens of the state of Montana and to assure
7 compliance with the intent of this act."

8 Section 10. Section 62-724, R.C.M. 1947, is amended to
9 read as follows:

10 "62-724. Gambling on cash basis. (1) In every gambling
11 game ~~of chance conducted pursuant to any gambling law of the~~
12 ~~state~~ the consideration paid for the chance to play shall be
13 strictly cash. Every participant must present the money with
14 which he intends to play the gambling game at the time the
15 game is played. No check, credit card, note, ~~or~~ IOU, or
16 other evidence of indebtedness shall be offered or accepted
17 as part of the price of participation in ~~a~~-gambling such
18 game or as payment of a gambling debt incurred therein.

19 (2) No action based on such a gambling debt is
20 maintainable in a court of this state."

21 Section 11. Section 62-725, R.C.M. 1947, is amended to
22 read as follows:

23 "62-725. Cheating unlawful. It shall be unlawful to
24 conduct or participate in a gambling game of chance
25 authorized by this act ~~or any other gambling law~~ in any

1 manner which results in cheating, misrepresentation, or
2 other such disreputable tactics which distract from a fair
3 and equal chance for all participants or which otherwise
4 affects the outcome of the gambling game."

5 Section 12. There is a new R.C.M. section that reads
6 as follows:

7 Sports pools authorized. Conducting or participating in
8 sports pools as defined and governed in ~~this act 62-727~~
9 THROUGH 62-736 is lawful.

10 Section 13. Section 62-729, R.C.M. 1947, is amended to
11 read as follows:

12 "62-729. Gambling on cash basis. (1) In every gambling
13 game ~~conducted pursuant to any gambling law of the state~~
14 sports pool the consideration paid for the chance to play
15 shall be strictly cash. Every participant must present the
16 money with which he intends to play ~~the gambling game~~ at the
17 time the game pool is played entered. No check, credit card,
18 note, ~~or~~ IOU, or other evidence of indebtedness shall be
19 offered or accepted as part of the price of participating in
20 a gambling game or as payment of a gambling debt pool.

21 (2) No action based on a gambling debt incurred in a
22 sports pool is maintainable in a court of this state."

23 Section 14. Section 62-730, R.C.M. 1947, is amended to
24 read as follows:

25 "62-730. Minors may not participate. No person under

1 the age of ~~eighteen~~ ~~(18)~~ years shall ~~may~~ be permitted to
 2 participate in any ~~game or games of chance~~ sports pool held,
 3 operated, or conducted pursuant to this act."

4 Section 15. Section 62-731, R.C.M. 1947, is amended to
 5 read as follows:

6 "62-731. Cheating unlawful. It shall be unlawful to
 7 conduct or participate in a ~~gambling game~~ sports pool
 8 authorized by this act ~~or any other gambling law~~ in any
 9 manner which results in cheating, misrepresentation, or
 10 other such disreputable tactics which distract from a fair
 11 and equal chance for all participants or which otherwise
 12 affects the outcome of the ~~gambling game~~ pool."

13 Section 16. Section 62-735, R.C.M. 1947, is amended to
 14 read as follows:

15 "62-735. ~~Venue Jurisdiction.~~ Venue Jurisdiction for all
 16 violations of this act is in the district court."

17 Section 17. Section 94-8-301, R.C.M. 1947, is amended
 18 to read as follows:

19 "94-8-301. Lottery defined. A lottery is any scheme
 20 for the disposal or distribution of property by chance
 21 among persons who have paid or promised to pay any valuable
 22 consideration for the chance of obtaining such property or a
 23 portion of it, or for any share or interest in such
 24 property, upon any agreement, understanding, or expectation
 25 that it is to be distributed or disposed of by lot or

1 chance, whether called a lottery, ~~raffle~~ or gift
 2 enterprise, or by whatever name the same may be known."

3 Section 18. Section 94-8-302, R.C.M. 1947, is amended
 4 to read as follows:

5 "94-8-302. ~~Drawings for prizes or premiums not~~
 6 ~~contemplated by act when Application.~~ This act ~~part~~ shall
 7 not apply to the provisions of 62-715 through 62-726 or to
 8 ~~the~~ giving away of cash or merchandise attendance prizes or
 9 premiums by public drawings at agricultural fairs or rodeo
 10 associations in this state, and the county fair
 11 commissioners of agricultural fairs or rodeo associations in
 12 this state may give away at such fairs cash or merchandise
 13 attendance prizes or premiums by public drawings."

14 Section 19. Section 94-8-401, R.C.M. 1947, is amended
 15 to read as follows:

16 "94-8-401. Gambling games prohibited -- penalty --
 17 ~~license fees for card tables.~~ Every ~~person who deals or~~
 18 ~~carries or opens or causes to be opened or who conducts~~
 19 ~~or causes to be conducted, operates or runs, either as~~
 20 ~~principal, agent, owner or employee, whether for hire or~~
 21 ~~not, any game of monte, doney, fan-tany, tany, studhorse~~
 22 ~~pokery, craps, seven and a half, twenty one, ferov, roulette,~~
 23 ~~pongani or pengeny, hokey, pokey, draw pokery, or the game~~
 24 ~~commonly known as round the table pokery, or any banking or~~
 25 ~~percentage game, or any game commonly known as sure thing~~

~~1 games or any game of chance played with cards, dice or any
 2 device whatsoever or who runs or conducts or causes to be
 3 run or conducted, or keeps any slot machine, punchboard, or
 4 other similar machine or device, or permits the same to be
 5 run or conducted for money, checks, credits, or any
 6 representative of value, or any property or thing
 7 whatsoever or any person owning or in charge of any cigar
 8 store, drugstore, or other place of business, or any place
 9 where drinks are sold or served, who permits any of the
 10 games prohibited in this section to be played, in or about
 11 such cigar store, drugstore, or other place of business, or
 12 permits any slot machine, punchboard, or similar device to
 13 be kept therein, or any person or persons who conduct any
 14 bucketshop where stocks or securities of any kind are sold
 15 on margins, and every person who plays or bets at or against
 16 said prohibited games or devices, except as hereinafter
 17 provided, is guilty of a misdemeanor and shall be punishable
 18 by a fine of not less than one hundred dollars (\$100.00),
 19 nor more than one thousand dollars (\$1,000.00), and may be
 20 imprisoned for not less than three (3) months, nor more than
 21 one (1) year, or by both such fine and imprisonment;
 22 [provided, however, that it shall be lawful for cigar
 23 stores, fraternal organizations, charitable organizations,
 24 drugstores and other places of business, upon the payment of
 25 a license fee therefor to the county treasurer in the sum of~~

~~1 ten dollars (\$10.00) annually per table used or operated in
 2 such place of business, to maintain and keep for the use and
 3 pleasure of their customers and patrons, card tables and
 4 cards with which and at which such games as rummy, whist,
 5 bridge, whist, blackjack, euchre, pinochle, pangen, or
 6 pangen, seven-up, hearts, freeze-out, casino, sol, or
 7 cribbage, five hundred, pentecente, dominos, high-five and
 8 checkers may be played for pastime and amusement by
 9 customers who are not minors, and for the maintenance of
 10 which a charge may be made to be paid by the users by the
 11 purchase of trade checks which must be redeemable in
 12 merchandise at the going retail price of such merchandise
 13 which is the stock in trade of such business, and that
 14 places of business may, upon the payment of a license fee
 15 therefor to the county treasurer in the sum of ten dollars
 16 (\$10.00) annually, exhibit for use and sale to all customers
 17 not minors, trade stimulators, such as pull boards and
 18 ticket boards, where each board so used returns to the owner
 19 or business not to exceed the going retail price of the
 20 goods disposed of and sold and disposed of through the use
 21 of the same, and which goods sold and disposed of through
 22 the use of the same must not be other than the goods
 23 constituting the usual stock in trade of the business using
 24 the same.} Except as otherwise provided by law, a person who
 25 engages in gambling in any form with cards, dice, or other~~

1 ~~implements or devices of any kind wherein anything valuable~~
 2 ~~is MAY BE wagered upon the outcome or who keeps any~~
 3 ~~establishment, place, equipment, or apparatus for such~~
 4 ~~gambling or any agents or employees for such purpose is~~
 5 ~~guilty of a misdemeanor and is punishable by a fine of not~~
 6 ~~less than \$100 or more than \$1,000 or imprisonment not less~~
 7 ~~than 3 months or more than 1 year or by both such fine and~~
 8 ~~imprisonment."~~

9 Section 20. Section 94-8-404, R.C.M. 1947, is amended
 10 to read as follows:

11 "94-8-404. Possession of gambling implements
 12 prohibited. Any person who has in his possession or under
 13 his control or who permits to be placed, maintained, or
 14 kept in any room, space, inclosure, or building owned,
 15 leased, or occupied by him or under his management or
 16 control any faro box, faro layout, roulette wheel, roulette
 17 table, crap table, slot-machine, PUNCHBOARD, or any machine
 18 or apparatus of the kind mentioned in the preceding section
 19 ~~of this act, 94-8-401~~ is punishable by a fine of not less
 20 than ~~one-hundred nor \$100 or more than one-thousand dollars,~~
 21 ~~\$1,000~~ and may be imprisoned for not less than three 2
 22 months ~~nor or~~ more than one 1 year in the discretion of the
 23 court, provided, however, that this section shall not apply
 24 to a public officer or to a person coming into possession
 25 thereof in or by reason of the performance of an official

1 duty and holding the same to be disposed of according to
 2 law."

3 Section 21. Section 94-8-411, R.C.M. 1947, is amended
 4 to read as follows:

5 "94-8-411. Duty of magistrate to retain gambling
 6 implement or apparatus for trial. The magistrate before whom
 7 any machine, apparatus, or instrument is brought pursuant to
 8 ~~the preceding section 94-8-410~~ must, if there be ~~is~~ a
 9 prisoner and if he ~~shall hold~~ holds such prisoner, cause the
 10 machine, apparatus, or instrument to be delivered to the
 11 county attorney to be used as evidence on the trial of such
 12 prisoner. If there be ~~is~~ no prisoner, or if the magistrate
 13 does not hold the prisoner, ~~he~~ the magistrate must cause the
 14 immediate and public destruction of the machine, apparatus,
 15 or instrument in the ~~his own~~ presence of ~~said~~ magistrate. No
 16 person owning or claiming to own any such machine,
 17 apparatus, or instrument so destroyed, ~~shall have~~ has any
 18 right of action against any person or against the state,
 19 county, or city for the value of such article, or for
 20 damages. It ~~shall be~~ is the duty of the county attorney to
 21 produce such articles in court on the trial of the case. It
 22 ~~shall be~~ is the duty of the trial court, after the
 23 disposition of the case, and whether the defendant be ~~is~~
 24 convicted, acquitted, or fails to appear for trial, to cause
 25 the immediate and public destruction of any such article by

1 the sheriff or any other officer or person designated by the
2 court."

3 Section 22. Section 94-8-413, R.C.M., 1947, is amended
4 to read as follows:

5 "94-8-413. Authority to break and enter buildings
6 where games are probably being played. Every sheriff,
7 constable and public peace officer, having probable cause to
8 believe that any room, tent, or apartment is being used as a
9 room, tent, or apartment for the playing or conducting of
10 any of the games mentioned in this act, shall have authority
11 to may break open any door, or opening into any such room,
12 tent, or apartment, with or without a warrant of arrest, for
13 the purpose of arresting the offenders against this act."

14 Section 22. Section 94-8-422, R.C.M., 1947, is amended
15 to read as follows:

16 "94-8-422. Lessor of buildings used for gambling
17 purposes treated as principal. Whenever premises are
18 occupied for the doing of any of the things, or running any
19 of the games prohibited by this act part, the lease or
20 agreement under which they are so occupied shall be
21 absolutely void at the instance of the lessor, who may at
22 any time obtain possession by civil action, or by action of
23 forcible unlawful detainer, and ~~if~~ If any person ~~lease~~
24 leases premises for any such purpose, or knowingly permits
25 them to be used or occupied for such purpose or purposes,

1 or, knowing them to be so occupied or used, fails
2 immediately to prosecute in good faith an action or
3 proceeding for the recovery of the premises, such lessor
4 shall be considered in all cases, civil and criminal, as a
5 principal in running the games or doing the things run or
6 done in such building, in violation of this act part and
7 shall be dealt with and punished accordingly."

8 Section 23. Section 94-8-424, R.C.M., 1947, is amended
9 to read as follows:

10 "94-8-424. Ordinances concerning gambling in conflict
11 with this act void. Upon the passage of this act, all
12 ordinances and parts of ordinances of cities and towns in
13 this state regarding gambling and gambling houses shall be
14 inoperative and void, and thereafter no no ordinance
15 regarding gambling or gambling houses shall may be passed by
16 any city, or town, COUNTY, OR OTHER POLITICAL SUBDIVISION OF
17 THE STATE except in compliance with 62-701 through 62-736."

18 Section 24. Section 94-8-429, R.C.M., 1947, is amended
19 to read as follows:

20 "94-8-429. Slot machine defined. A slot machine is
21 hereby defined as a machine operated by inserting a coin,
22 token, chip, or trade check, or paper currency therein by
23 the player and from the play of which he obtains, or may
24 obtain, money, checks, chips, or tokens, or paper currency
25 redeemable in money. Merchandise vending machines where the

1 element of chance does not enter into their operation are
2 not within the provisions of this act ~~part.~~"

3 Section 25. Section 94-8-430, R.C.M. 1947, is amended
4 to read as follows:

5 "94-8-430. Person or persons defined. In addition to
6 their ordinary meaning, the word "person" or "persons," as
7 used in this act ~~part~~, ~~shall include~~ includes both natural
8 and artificial persons and all partnerships, corporations,
9 associations, clubs, fraternal orders, and societies,
10 including religious, fraternal, and charitable
11 organizations."

12 SECTION 26. SECTION 94-8-431, R.C.M. 1947, IS AMENDED
13 TO READ AS FOLLOWS:

14 "94-8-431. Penalty for possession or permitting use of
15 slot machine. Any person, partnership, club, society,
16 fraternal order, corporation, ~~co-operative~~ cooperative
17 association or any other person, individual, or organization
18 who violates any of the provisions of this act, or who
19 permits the use of any slot machine, as herein defined, on
20 any place or premises owned, occupied, or controlled by him
21 or it, ~~shall be~~ is guilty of a misdemeanor and ~~shall be~~ is
22 punishable by a fine of not less than ~~one hundred dollars~~
23 ~~(\$100.00)~~ or ~~more than five hundred dollars (\$500.00)~~
24 \$1,000 or by imprisonment in the county jail for not less
25 than ~~thirty (30) days~~ or 3 months ~~or~~ more than ~~six (6)~~

1 months, 1 year or by both such fine and imprisonment."

2 Section 27. Repealer. Sections 84-5703 through
3 84-5719, 94-8-402, 94-8-403, ~~94-8-413~~, 94-8-425, 94-8-426,
4 and 94-8-427, R.C.M. 1947, are repealed.

-End-