

HOUSE BILL NO. 388

Introduced: 01/19/83

Referred to Committee on Local Government: 01/19/83

Hearing: 2/8/83

Report: 02/12/83, Do Not Pass, As Amended

Objection 2/14/83

2nd Reading: 02/16/83, Do Not Pass

Bill Killed

1 *House* BILL NO. *388*  
 2 INTRODUCED BY *Harrington, Carlson, Monahan, Quilley,*  
 3 *Haffey, Keenan, Lynch, Stumatz, & Jackson*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING  
 5 SELF-GOVERNING COUNTIES AND SELF-GOVERNING CITY-COUNTY  
 6 CONSOLIDATED LOCAL GOVERNMENTS TO REGULATE GAMBLING WITHIN  
 7 THEIR JURISDICTIONS; PROVIDING FOR PENALTIES; PROVIDING FOR  
 8 A TAX ON GAMBLING REVENUES, FACILITIES, IMPLEMENTS, AND  
 9 MACHINES; AMENDING SECTIONS 7-1-112, 23-5-102, AND 23-5-142,  
 10 MCA."

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

13 NEW SECTION. Section 1. Countywide regulation of  
 14 gambling -- self-governing local governments. (1) The  
 15 governing body of a self-governing county or a  
 16 self-governing city-county consolidated local government may  
 17 by ordinance regulate gambling within its jurisdiction.

18 (2) The regulation of gambling provided for in this  
 19 section includes the power to license gambling facilities,  
 20 gambling implements, and gambling machines.

21 (3) The regulation of gambling may be stricter or less  
 22 strict than state regulation of gambling.

23 (4) (a) A form of gambling that is prohibited by a  
 24 self-governing county or self-governing city-county  
 25 consolidated local government is prohibited gambling under

1 the provisions of 23-5-102, notwithstanding that the form of  
 2 gambling may be authorized under other provisions of state  
 3 law.

4 (b) A form of gambling that is authorized by a  
 5 self-governing county or a self-governing city-county  
 6 consolidated local government is an authorized form of  
 7 gambling under state law, and a person engaging in that form  
 8 of gambling within the jurisdiction of the county or  
 9 city-county consolidated local government is not subject to  
 10 prosecution under 23-5-102, notwithstanding that the form of  
 11 gambling may be prohibited or not authorized under other  
 12 provisions of state law.

13 (5) A local government regulating gambling under this  
 14 section may define gambling offenses, including cheating and  
 15 prohibited forms of gambling, and may fix as a penalty for  
 16 violation of such gambling offenses a fine not to exceed  
 17 \$5,000 or imprisonment not to exceed 6 months or both such  
 18 fine and imprisonment.

19 (6) A local government regulating gambling under this  
 20 section may by ordinance levy a tax on income and proceeds  
 21 of gambling and may tax gambling facilities, gambling  
 22 implements, and gambling machines.

23 Section 2. Section 7-1-112, MCA, is amended to read:

24 "7-1-112. Powers requiring delegation. A local  
 25 government with self-government powers is prohibited the

-2- INTRODUCED BILL  
 HB 388

1 exercise of the following powers unless the power is  
2 specifically delegated by law:

3 (1) the power to authorize a tax on income or the sale  
4 of goods or services, except that this section shall not be  
5 construed to limit the authority of a local government to  
6 levy any other tax or establish the rate of any other tax;

7 (2) the power to regulate private activity beyond its  
8 geographic limits;

9 (3) the power to impose a duty on another unit of  
10 local government, except that nothing in this limitation  
11 shall affect the right of a self-government unit to enter  
12 into and enforce an agreement on interlocal cooperation;

13 (4) the power to exercise any judicial function,  
14 except as an incident to the exercise of an independent  
15 self-government administrative power;

16 ~~(5) the power to regulate any form of gambling,~~  
17 ~~lotteries, or gift enterprises."~~

18 Section 3. Section 23-5-102, MCA, is amended to read:

19 "23-5-102. Gambling prohibited -- penalty. Except as  
20 provided in [section 11] or otherwise provided by law, a  
21 person who engages in gambling in any form with cards, dice,  
22 or other implements or devices of any kind wherein anything  
23 valuable may be wagered upon the outcome or who keeps any  
24 establishment, place, equipment, or apparatus for such  
25 gambling or any agents or employees for such purpose is

1 guilty of a misdemeanor and is punishable by a fine of not  
2 less than \$100 or more than \$1,000 or imprisonment not less  
3 than 3 months or more than 1 year or by both such fine and  
4 imprisonment."

5 Section 4. Section 23-5-142, MCA, is amended to read:

6 "23-5-142. Ordinances concerning gambling. No except  
7 as provided in [section 11], no ordinance regarding gambling  
8 or gambling houses may be passed by any city, or town,  
9 county, or other political subdivision of the state except  
10 in compliance with parts 3, 4, and 5 of this chapter."

11 NEW SECTION. Section 5. Severability. If a part of  
12 this act is invalid, all valid parts that are severable from  
13 the invalid part remain in effect. If a part of this act is  
14 invalid in one or more of its applications, the part remains  
15 in effect in all valid applications that are severable from  
16 the invalid applications.

-End-

Comm.  
on Local Government  
Recommend do not pass  
Objection Raised to  
Adverse Committee Report

## HOUSE BILL NO. 388

INTRODUCED BY HARRINGTON, PAVLOVICH, MENAHAN,  
QUILICI, HAFLEY, KEENAN, LYNCH, STIMATZ,  
JACOBSON, DAILY, D. BROWN, DANIELS

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING  
SELF-GOVERNING COUNTIES AND SELF-GOVERNING CITY-COUNTY  
CONSOLIDATED LOCAL GOVERNMENTS TO REGULATE GAMBLING SUBJECT  
TO THE APPROVAL OF THE ELECTORATE WITHIN THEIR  
JURISDICTIONS; PROVIDING FOR PENALTIES; PROVIDING FOR A TAX  
ON GAMBLING REVENUES, FACILITIES, IMPLEMENTS, AND MACHINES;  
AMENDING SECTIONS 7-1-112, 23-5-102, AND 23-5-142, MCA."

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

~~NEW SECTION.~~ Section 1. Countywide regulation of  
gambling -- self-governing local governments. (1) The  
governing body of a self-governing county or a  
self-governing city-county consolidated local government may  
by ordinance ~~APPROVED BY THE ELECTORATE IN A REFERENDUM~~  
~~CONDUCTED PURSUANT TO 7-5-132,~~ regulate gambling within its  
jurisdiction.

(2) The regulation of gambling provided for in this  
section includes the power to license gambling facilities,  
gambling implements, and gambling machines.

(3) The regulation of gambling may be stricter or less

strict than state regulation of gambling.

(4) (a) A form of gambling that is prohibited by a  
self-governing county or self-governing city-county  
consolidated local government is prohibited gambling under  
the provisions of 23-5-102, notwithstanding that the form of  
gambling may be authorized under other provisions of state  
law.

(b) A form of gambling that is authorized by a  
self-governing county or a self-governing city-county  
consolidated local government is an authorized form of  
gambling under state law, and a person engaging in that form  
of gambling within the jurisdiction of the county or  
city-county consolidated local government is not subject to  
prosecution under 23-5-102, notwithstanding that the form of  
gambling may be prohibited or not authorized under other  
provisions of state law.

(5) A local government regulating gambling under this  
section may define gambling offenses, including cheating and  
prohibited forms of gambling, and may fix as a penalty for  
violation of such gambling offenses a fine not to exceed  
\$5,000 or imprisonment not to exceed 6 months or both such  
fine and imprisonment.

(6) A local government regulating gambling under this  
section may by ordinance levy a tax on income and proceeds  
of gambling and may tax gambling facilities, gambling

1 implements, and gambling machines.

2 Section 2. Section 7-1-112, MCA, is amended to read:

3 "7-1-112. Powers requiring delegation. A local  
4 government with self-government powers is prohibited the  
5 exercise of the following powers unless the power is  
6 specifically delegated by law:

7 (1) the power to authorize a tax on income or the sale  
8 of goods or services, except that this section shall not be  
9 construed to limit the authority of a local government to  
10 levy any other tax or establish the rate of any other tax;

11 (2) the power to regulate private activity beyond its  
12 geographic limits;

13 (3) the power to impose a duty on another unit of  
14 local government, except that nothing in this limitation  
15 shall affect the right of a self-government unit to enter  
16 into and enforce an agreement on interlocal cooperation;

17 (4) the power to exercise any judicial function,  
18 except as an incident to the exercise of an independent  
19 self-government administrative power;

20 ~~(5) the power to regulate any form of gambling,~~  
21 ~~lotteries, or gift enterprises."~~

22 Section 3. Section 23-5-102, MCA, is amended to read:

23 "23-5-102. Gambling prohibited -- penalty. Except as  
24 ~~provided in [section 1]~~ or otherwise provided by law, a  
25 person who engages in gambling in any form with cards, dice,

1 or other implements or devices of any kind wherein anything  
2 valuable 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  
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7 than 3 months or more than 1 year or by both such fine and  
8 imprisonment."

9 Section 4. Section 23-5-142, MCA, is amended to read:

10 "23-5-142. Ordinances concerning gambling. ~~No Except~~  
11 ~~as provided in [section 1],~~ no ordinance regarding gambling  
12 or gambling houses may be passed by any city, or town,  
13 county, or other political subdivision of the state except  
14 in compliance with parts 3, 4, and 5 of this chapter."

15 ~~NEW SECTION.~~ Section 5. Severability. If a part of  
16 this act is invalid, all valid parts that are severable from  
17 the invalid part remain in effect. If a part of this act is  
18 invalid in one or more of its applications, the part remains  
19 in effect in all valid applications that are severable from  
20 the invalid applications.

-End-

HOUSE JUDICIARY  
COMMITTEE

AMENDMENTS TO SENATE BILL 388

March 14, 1984

Third Reading Copy (blue)

BE AMENDED AS FOLLOWS:

1. Page 2, line 17.

Following: "action"

Insert: "satisfactory to the commission"

AND AS AMENDED

BE CONCURRED IN