

HOUSE BILL NO. 642

INTRODUCED BY YARDLEY, BRAND, MENAHAN, RYAN, ELLISON,  
MAZUREK, DEVLIN, D. BROWN, MCCALLUM, FULLER, KEATING

IN THE HOUSE

February 4, 1983	Introduced and referred to Committee on Judiciary.
February 11, 1983	Committee recommend bill do pass. Report adopted.
February 12, 1983	Bill printed and placed on members' desks.
February 14, 1983	Second reading, do pass.
February 15, 1983	Considered correctly engrossed.
February 16, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 17, 1983	Introduced and referred to Committee on Judiciary.
March 10, 1983	Committee recommend bill be concurrent in as amended. Report adopted.
March 14, 1983	Second reading, concurrent in.
March 16, 1983	Third reading, concurrent in. Ayes, 46; Noes, 0.

IN THE HOUSE

March 16, 1983

Returned to House with  
amendments.

March 31, 1983

Second reading, amendments  
concurred in.

April 1, 1983

Third reading, amendments  
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 642  
 2 INTRODUCED BY Handley, Brand, Menahan,  
 3 Ryan, Ellison, Devlin, Don, Brown, Fuller, Kistner,  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE  
 5 POSSESSION OF ANTIQUE SLOT MACHINES; AMENDING SECTIONS  
 6 23-5-104 AND 23-5-122, MCA."

7  
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 9 Section 1. Section 23-5-104, MCA, is amended to read:  
 10 "23-5-104. Slot machines -- possession unlawful --  
 11 ~~antiques exempt. It (1) Except as provided in subsection~~  
 12 ~~(2), it shall be a misdemeanor and punishable as hereinafter~~  
 13 ~~provided for any person to use, possess, operate, keep, or~~  
 14 ~~maintain for use or operation or otherwise, anywhere within~~  
 15 ~~the state of Montana, any slot machine of any sort or kind~~  
 16 ~~whatsoever.~~

17 ~~(2). Subsection (1) does not apply to an antique slot~~  
 18 ~~machine that is not used in the operation or promotion of~~  
 19 ~~unlawful gambling activity. For purposes of this section,~~  
 20 ~~"antique slot machine" means a slot machine that was~~  
 21 ~~manufactured prior to 1950."~~

22 Section 2. Section 23-5-122, MCA, is amended to read:  
 23 "23-5-122. Destruction of gambling apparatus -- when  
 24 required. (1) The magistrate before whom any machine,  
 25 apparatus, or instrument is brought pursuant to 23-5-121

1 must, if there is a prisoner and if he holds such prisoner,  
 2 cause the machine, apparatus, or instrument to be delivered  
 3 to the county attorney to be used as evidence on the trial  
 4 of such prisoner. If there is no prisoner or if the  
 5 magistrate does not hold the prisoner, the magistrate must  
 6 cause the immediate and public destruction of the machine,  
 7 apparatus, or instrument in his own presence unless any  
 8 person contends that the article involved is an antique slot  
 9 machine. If the magistrate has reason to believe that the  
 10 article is an antique slot machine, he shall allow the owner  
 11 of the slot machine a reasonable amount of time to prepare  
 12 and present his contention that the slot machine is an  
 13 antique not used in the operation or promotion of unlawful  
 14 gambling activity.

15 (2) No person owning or claiming to own any such  
 16 machine, apparatus, or instrument so destroyed in accordance  
 17 with subsection (1) has any right of action against any  
 18 person or against the state, county, or city for the value  
 19 of such article or for damages. It is the duty of the county  
 20 attorney to produce such articles in court on the trial of  
 21 the case. It is the duty of the trial court, after the  
 22 disposition of the case and whether the defendant is  
 23 convicted, acquitted, or fails to appear for trial, to cause  
 24 the immediate and public destruction of any such article by  
 25 the sheriff or any other officer or person designated by the

1 court unless it is determined that the article is an antique  
2 slot machine and that it was not used in the operation or  
3 promotion of unlawful gambling activity. If such a  
4 determination is made, the antique slot machine must be  
5 returned to its owner."

-End-

Approved by Committee  
on Judiciary

1 *House* BILL NO. *642*  
2 INTRODUCED BY *Wayne Brand Manahan*  
3 *Ripon Ellison Newton Dave Brown Fuller Keating*  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE  
5 POSSESSION OF ANTIQUE SLOT MACHINES; AMENDING SECTIONS  
6 23-5-104 AND 23-5-122, MCA."  
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11 ~~antiques exempt. It (1) Except as provided in subsection~~  
12 ~~(2), it shall be a misdemeanor and punishable as hereinafter~~  
13 ~~provided for any person to use, possess, operate, keep, or~~  
14 ~~maintain for use or operation or otherwise, anywhere within~~  
15 ~~the state of Montana, any slot machine of any sort or kind~~  
16 ~~whatsoever.~~  
17 ~~(2). Subsection (1) does not apply to an antique slot~~  
18 ~~machine that is not used in the operation or promotion of~~  
19 ~~unlawful gambling activity. For purposes of this section,~~  
20 ~~"antique slot machine" means a slot machine that was~~  
21 ~~manufactured prior to 1950."~~  
22 Section 2. Section 23-5-122, MCA, is amended to read:  
23 "23-5-122. Destruction of gambling apparatus -- when  
24 required. (1) The magistrate before whom any machine,  
25 apparatus, or instrument is brought pursuant to 23-5-121

1 must, if there is a prisoner and if he holds such prisoner,  
2 cause the machine, apparatus, or instrument to be delivered  
3 to the county attorney to be used as evidence on the trial  
4 of such prisoner. If there is no prisoner or if the  
5 magistrate does not hold the prisoner, the magistrate must  
6 cause the immediate and public destruction of the machine,  
7 apparatus, or instrument in his own presence unless any  
8 person contends that the article involved is an antique slot  
9 machine. If the magistrate has reason to believe that the  
10 article is an antique slot machine, he shall allow the owner  
11 of the slot machine a reasonable amount of time to prepare  
12 and present his contention that the slot machine is an  
13 antique not used in the operation or promotion of unlawful  
14 gambling activity.  
15 (2) No person owning or claiming to own any such  
16 machine, apparatus, or instrument so destroyed in accordance  
17 with subsection (1) has any right of action against any  
18 person or against the state, county, or city for the value  
19 of such article or for damages. It is the duty of the county  
20 attorney to produce such articles in court on the trial of  
21 the case. It is the duty of the trial court, after the  
22 disposition of the case and whether the defendant is  
23 convicted, acquitted, or fails to appear for trial, to cause  
24 the immediate and public destruction of any such article by  
25 the sheriff or any other officer or person designated by the

1 court unless it is determined that the article is an antique  
2 slot machine and that it was not used in the operation or  
3 promotion of unlawful gambling activity. If such a  
4 determination is made, the antique slot machine must be  
5 returned to its owner."

-End-

1 House BILL NO. 642  
 2 INTRODUCED BY Harold Gray, Bernard Monahan,  
 3 Ryan Ellison, Duster Don Brown, Fuller Ketting,  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE  
 5 POSSESSION OF ANTIQUE SLOT MACHINES; AMENDING SECTIONS  
 6 23-5-104 AND 23-5-122, MCA."

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

9 Section 1. Section 23-5-104, MCA, is amended to read:

10 "23-5-104. Slot machines -- possession unlawful --  
 11 ~~antiques exempt. It (1) Except as provided in subsection~~  
 12 ~~(2)a, it shall be a misdemeanor and punishable as hereinafter~~  
 13 ~~provided for any person to use, possess, operate, keep, or~~  
 14 ~~maintain for use or operation or otherwise, anywhere within~~  
 15 ~~the state of Montana, any slot machine of any sort or kind~~  
 16 ~~whatsoever.~~

17 ~~(2) Subsection (1) does not apply to an antique slot~~  
 18 ~~machine that is not used in the operation or promotion of~~  
 19 ~~unlawful gambling activity. For purposes of this section,~~  
 20 ~~"antique slot machine" means a slot machine that was~~  
 21 ~~manufactured prior to 1950."~~

22 Section 2. Section 23-5-122, MCA, is amended to read:

23 "23-5-122. Destruction of gambling apparatus -- when  
 24 required. (1) The magistrate before whom any machine,  
 25 apparatus, or instrument is brought pursuant to 23-5-121

1 must, if there is a prisoner and if he holds such prisoner,  
 2 cause the machine, apparatus, or instrument to be delivered  
 3 to the county attorney to be used as evidence on the trial  
 4 of such prisoner. If there is no prisoner or if the  
 5 magistrate does not hold the prisoner, the magistrate must  
 6 cause the immediate and public destruction of the machine,  
 7 apparatus, or instrument in his own presence unless any  
 8 person contends that the article involved is an antique slot  
 9 machine. If the magistrate has reason to believe that the  
 10 article is an antique slot machine, he shall allow the owner  
 11 of the slot machine a reasonable amount of time to prepare  
 12 and present his contention that the slot machine is an  
 13 antique not used in the operation or promotion of unlawful  
 14 gambling activity.

15 (2) No person owning or claiming to own any such  
 16 machine, apparatus, or instrument so destroyed in accordance  
 17 with subsection (1) has any right of action against any  
 18 person or against the state, county, or city for the value  
 19 of such article or for damages. It is the duty of the county  
 20 attorney to produce such articles in court on the trial of  
 21 the case. It is the duty of the trial court, after the  
 22 disposition of the case and whether the defendant is  
 23 convicted, acquitted, or fails to appear for trial, to cause  
 24 the immediate and public destruction of any such article by  
 25 the sheriff or any other officer or person designated by the

1 court unless it is determined that the article is an antique  
2 slot machine and that it was not used in the operation or  
3 promotion of unlawful gambling activity. If such a  
4 determination is made, the antique slot machine must be  
5 returned to its owner."

-End-



March 10, 1983

SENATE STANDING COMMITTEE REPORT  
(Judiciary)

That House Bill No. 642 be amended as follows:

1. Title, lines 4 and 5.  
Following: "AN ACT"  
Strike: "AUTHORIZING THE POSSESSION OF ANTIQUE SLOT MACHINES"  
Insert: "AUTHORIZING UNDER CERTAIN CIRCUMSTANCES THE POSSESSION AND OPERATION OF CERTAIN ANTIQUE SLOT MACHINES; LIMITING THEIR OPERATION TO PRIVATE, RESIDENTIAL DWELLINGS; PROHIBITING THEIR POSSESSION, LOCATION AND OPERATION IN ANY PUBLIC PREMISES BUT PERMITTING THEIR LOCATION FOR DISPLAY AND NOT FOR OPERATION IN A MUSEUM OWNED BY THE STATE, COUNTY OR CITY; PROHIBITING THEIR OPERATION FOR ANY COMMERCIAL OR CHARITABLE PURPOSE"
2. Title, line 6.  
Following: "AND"  
Strike: "23-5-122"  
Insert: "23-5-121"
3. Page 1.  
Following: line 8.  
Insert: "THERE IS A NEW MCA SECTION THAT READS:  
"Section 1. Possession and use of antique slot machines authorized -- conditions. (1) The provisions of 23-5-104 and 23-5-121 do not apply to antique slot machines possessed, located, and used in accordance with this section. For the purposes of this section an antique slot machine is a slot machine manufactured prior to 1950, the operation of which is exclusively mechanical in nature and is not aided in whole or in part by any electronic means.  
(2) Except as provided in subsection (3), antique slot machines may be possessed, located, and operated only in a private residential dwelling.  
(3) Antique slot machines may be possessed or located for purposes of display only and not for operation in any public museum owned and operated by the state of Montana, or a county, or a city.  
(4) No antique slot machine may be operated for any commercial or charitable purpose."  
Renumber: subsequent sections.
4. Page 1, lines 10 and 11.  
Strike: "-- antiques exempt. (1)"  
Insert: "."
5. Page 1, lines 11 and 12.  
Strike: "subsection (2)"  
Insert: "[section 1]"
6. Page 1, line 17.  
Strike: subsection (2) in its entirety

SENATE STANDING COMMITTEE REPORT  
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Page 2

7. Page 1

Following: Line 21

Strike: Section 2 in its entirety

Insert: "Section 2. Section 23-5-121, MCA, is amended to read:

"23-5-121. Duty of peace officer to seize gambling implements and apparatus -- exception. (1) It shall be the duty of every officer authorized to make arrests to seize every machine, apparatus, or instrument answering to the description contained in this part or which may be used for the carrying on or conducting of any game or games mentioned in this part and to arrest the person actually or apparently in possession or control thereof or of the premises in which the same may be found, if any such person be present at the time of the seizure, and to bring the machine, apparatus, or instrument and the prisoner, if there be one, before a committing magistrate.

(2) This section does not apply to antique slot machines, the possession, location or use of which is authorized by [section 1].

NEW SECTION. Section 3. Codification instruction. Section 1 is intended to be codified as an integral part of Title 23, chapter 5, part 1, and the provisions of Title 23, chapter 5 apply to section 1."

## HOUSE BILL NO. 642

INTRODUCED BY YARDLEY, BRAND, MENAHAN, RYAN, ELLISON,  
MAZUREK, DEVLIN, D. BROWN, MCCALLUM, FULLER, KEATING

A BILL FOR AN ACT ENTITLED: "AN ACT ~~AUTHORIZING THE~~  
~~POSSESSION OF ANTIQUE SLOT MACHINES~~ AUTHORIZING UNDER  
CERTAIN CIRCUMSTANCES THE POSSESSION AND OPERATION OF  
CERTAIN ANTIQUE SLOT MACHINES; LIMITING THEIR OPERATION TO  
PRIVATE, RESIDENTIAL DWELLINGS; PROHIBITING THEIR  
POSSESSION, LOCATION, AND OPERATION IN ANY PUBLIC PREMISES  
BUT PERMITTING THEIR LOCATION FOR DISPLAY AND NOT FOR  
OPERATION IN A MUSEUM OWNED BY THE STATE, COUNTY, OR CITY;  
PROHIBITING THEIR OPERATION FOR ANY COMMERCIAL OR CHARITABLE  
PURPOSE; AMENDING SECTIONS 23-5-104 AND 23-5-122 23-5-121,  
MCA."

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

THERE IS A NEW MCA SECTION THAT READS:

Section 1. Possession and use of antique slot machines  
authorized -- conditions. (1) The provisions of 23-5-104 and  
23-5-121 do not apply to antique slot machines possessed,  
located, and used in accordance with this section. For the  
purposes of this section an antique slot machine is a slot  
machine manufactured prior to 1950, the operation of which  
is exclusively mechanical in nature and is not aided in

whole or in part by any electronic means.

(2) Except as provided in subsection (3), antique slot  
machines may be possessed, located, and operated only in a  
private residential dwelling.

(3) Antique slot machines may be possessed or located  
for purposes of display only and not for operation in any  
public museum owned and operated by the state of Montana, or  
a county, or a city.

(4) No antique slot machine may be operated for any  
commercial or charitable purpose.

Section 2. Section 23-5-104, MCA, is amended to read:

"23-5-104. Slot machines -- possession unlawful --  
~~antiques exempt. It is~~ Except as provided in subsection (2)  
[SECTION 1], it shall be a misdemeanor and punishable as  
hereinafter provided for any person to use, possess,  
operate, keep, or maintain for use or operation or  
otherwise, anywhere within the state of Montana, any slot  
machine of any sort or kind whatsoever.

~~(1) Subsection (1) does not apply to an antique slot~~  
~~machine that is not used in the operation or promotion of~~  
~~unlawful gambling activity. For purposes of this section,~~  
~~"antique slot machine" means a slot machine that was~~  
~~manufactured prior to 1950."~~

Section 2. Section 23-5-122, MCA, is amended to read:

"23-5-122. Destruction of gambling apparatus -- when

requireds--~~if~~--the--magistrate--before--whom--any--machiney  
 apparatus--or--instrument--is--brought--pursuant--to--23-5-121  
 master--if--there--is--a--prisoner--and--if--he--holds--such--prisonery  
 cause--the--machiney--apparatus--or--instrument--to--be--delivered  
 to--the--county--attorney--to--be--used--as--evidence--on--the--trial  
 of--such--prisoners--if--there--is--no--prisoner--or--if--the  
 magistrate--does--not--hold--the--prisonery--the--magistrate--must  
 cause--the--immediate--and--public--destruction--of--the--machiney  
 apparatus--or--instrument--in--his--own--presence--~~unless--any~~  
~~person--contends--that--the--article--involved--is--an--antique--slot~~  
~~machine--if--the--magistrate--has--reason--to--believe--that--the~~  
~~article--is--an--antique--slot--machine--he--shall--allow--the--owner~~  
~~of--the--slot--machine--a--reasonable--amount--of--time--to--prepare~~  
~~and--present--his--contention--that--the--slot--machine--is--an~~  
~~antique--not--used--in--the--operation--or--promotion--of--unlawful~~  
~~gambling--activity~~

~~if~~1--No--person--owning--or--claiming--to--own--any--such  
 machiney--apparatus--or--instrument--so--destroyed--in--accordance  
 with--subsection--~~if~~1--has--any--right--of--action--against--any  
 person--or--against--the--statey--county--or--city--for--the--value  
 of--such--article--or--for--damages--it--is--the--duty--of--the--county  
 attorney--to--produce--such--articles--in--court--on--the--trial--of  
 the--case--it--is--the--duty--of--the--trial--court--after--the  
 disposition--of--the--case--and--whether--the--defendant--is  
 convictedy--acquittedy--or--fails--to--appear--for--trialy--to--cause

the--immediate--and--public--destruction--of--any--such--article--by  
 the--sheriff--or--any--other--officer--or--person--designated--by--the  
 court--~~unless--it--is--determined--that--the--article--is--an--antique~~  
~~slot--machine--and--that--it--was--not--used--in--the--operation--or~~  
~~promotion--of--unlawful--gambling--activity~~ if--such--a  
 determination--is--made--the--antique--slot--machine--must--be  
 returned--to--its--owner"

SECTION 3. SECTION 23-5-121, MCA, IS AMENDED TO READ:

"23-5-121. Duty of peace officer to seize gambling  
 implements and apparatus ==exception. (1) It shall be the  
 duty of every officer authorized to make arrests to seize  
 every machine, apparatus, or instrument answering to the  
 description contained in this part or which may be used for  
 the carrying on or conducting of any game or games mentioned  
 in this part and to arrest the person actually or apparently  
 in possession or control thereof or of the premises in which  
 the same may be found, if any such person be present at the  
 time of the seizure, and to bring the machine, apparatus, or  
 instrument and the prisoner, if there be one, before a  
 committing magistrate.

(2) This section does not apply to antique slot  
 machines, the possession, location, or use of which is  
 authorized by [section 11]."

SECTION 4. CODIFICATION INSTRUCTION. SECTION 1 IS  
 INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 23.

HB 0642/02

- 1 CHAPTER 5, PART 1, AND THE PROVISIONS OF TITLE 23, CHAPTER
- 2 5, APPLY TO SECTION 1.

-End-