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 S	ENATE
February 17, 1983	Introduced and referred to Committee on Judiciary.
March 10, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 14, 1983	Second reading, concurred in.
March 16, 1983	Third reading, concurred 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.

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Z	ouse BILL	NO. 642	
INTRODUCED BY	andley.	Brand 1	1 ana hand
Ryan- Ellison A	n 1 //\	_	Fellen States
A BILL FOR AN AC	T ENTITLED:	Materille-	THORIZING THE
J	TIQUE SLOT MA	CHINES: AMEN	DING SECTIONS
23-5-104 AND 23-5-1			

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

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

#23-5-104. Slot machines -- possession unlawful ==

antiques exempt. It [1] Except as provided in subsection

[214_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.

(2) 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 sections "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
required. (1) The magistrate before whom any machine,
apparatus, or instrument is brought pursuant to 23-5-121

must, if there is a prisoner and if he holds such prisoner, cause the machine, apparatus, or instrument to be delivered to the county attorney to be used as evidence on the trial of such prisoner. If there is no prisoner or if the magistrate does not hold the prisoner, the magistrate must cause the immediate and public destruction of the machine. apparatus, or instrument in his own presence unless any 7 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 10 11 of the slot machine a reasonable amount of time to prepare 12 and present his contention that the slut machine is an 13 antique not used in the operation or promotion of uplawful 14 cambling activity.

machine, apparatus, or instrument so destroyed <u>in accordance</u> with <u>subsection (II)</u> has any right of action against any person or against the state, 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 convicted, acquitted, or fails to appear for trial, to cause the immediate and public destruction of any such article by 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 propotion of unlawful gambling activity. If such a
- 4 determination is made: the antique slot machine must be
- 5 returned to its owner.*

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Approved by Committee on Judiciary

House BILL NO. 642 1 2 "AN ACT AUTHORIZING THE POSSESSION OF ANTIQUE SLOT MACHINES: AMENDING SECTIONS 23-5-104 AND 23-5-122, MCA.T 7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HONTANA: 8 Section 1. Section 23-5-104, MCA, is amended to read: 9 "23-5-104. Slot machines -- possession unlawful == 10 antiques exempt. It (1) Except as provided in subsection 11 121: it shall be a misdemeanor and punishable as hereinafter 12 provided for any person to use, possess, operate, keep, or 13 maintain for use or operation or otherwise, anywhere within the state of Montana, any slot machine of any sort or kind 15 16 whatsoever. (2) Subsection (1) does not apply to an antique slot 17 machine that is not used in the operation or promotion of 18 unlawful gambling activity. For purposes of this section. 19 "antique slot machine" means a slot machine that was 20 21 mapufactured_prior_to_1950.** 22 Section 2. Section 23-5-122, MCA, is amended to read: *23-5-122. Destruction of gambling apparatus -- when 23 24 required. (1) The magistrate before whom any machines

apparatus, or instrument is brought pursuant to 23-5-121

must, if there is a prisoner and if he holds such prisoner, cause the machine, apparatus, or instrument to be delivered to the county attorney to be used as evidence on the trial of such prisoner. If there is no prisoner or if the magistrate does not hold the prisoner, the magistrate must cause the immediate and public destruction of the machine, apparatus, or instrument in his own presence unless any 7 person contends that the article involved is an antique slot maching. If the magistrate has reason to believe that the 10 article is an antique slot machine, be 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 of promotion of unlawful gambling activity. 14

11/1 642

- 1 court <u>unless it is determined that the article is an antique</u>
- 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.*

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1	House BILL NO. 642
2	INTRODUCED BY Landley Brown Manaha
3	Ryan Ellison Devety Done Brown Fuller State
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, NCA, is amended to read:
10	"23-5-104. Slot machines possession unlawful ==
11	antiques exempt. He (1) Except as provided in subsection
12	121=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_waching"_weans_a_slot_waching_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

required. (1) The magistrate before whom any machines

apparatus, or instrument is brought pursuant to 23-5-121

must, if there is a prisoner and if he holds such prisoner, 1 cause the machine, apparatus, or instrument to be delivered to the county attorney to be used as evidence on the trial of such prisoner. If there is no prisoner or if the magistrate does not hold the prisoner, the magistrate must cause the immediate and public destruction of the machine, 7 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 <u>article is an antique slot machine, he shall allow the owner </u> of the slot machine a reasonable amount of time to prepare 11 12 and present bis contention that the slot machine is an antique not used in the operation or promotion of unlawful gambling_activity.

121 No person owning or claiming to own any such machine, apparatus, or instrument so destroyed <u>in accordance</u> with subsection (1) has any right of action against any person or against the state, 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 convicted, acquitted, or fails to appear for trial, to cause the immediate and public destruction of any such article by 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.

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 House Bill No. 642 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."

1	HOUSE BILL NO. 642
2	INTRODUCED BY YARDLEY, BRAND, MENAHAN, RYAN, ELLISON,
3	MAZUREK, DEVLIN, D. BROWN, MCCALLUM, FULLER, KEATING
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT ANTHORIZZINGTHE
6	PRSSESSIONOFANTIQUESLOTMACHINES AUIHORIZING UNDER
7	CERTAIN CIRCUMSTANCES THE POSSESSION AND OPERATION OF
8	CERTAIN_ANTIQUE_SLOT_MACHINES:_LIMITING_THEIR_OPERATION_TO
9	PRIVATERESIDENTIALOWELLINGS:PROMIBITINGIMEIR
10	POSSESSION: LOCATION: AMO OPERATION IN ANY PUBLIC PREMISES
11	BUI_PERMITTING_INEIRLOCATION_FOR_DISPLAY_AND_NOT_FOR
12	OPERATION IN A MUSEUM OWNED BY THE STATE. COUNTY. OR CITY:
13	PROHIBITING_THEIR_OPERATION_FOR_ANY_COMMERCIAL_OR_CHARITABLE
14	PURPOSE: AMENDING SECTIONS 23-5-104 AND 23-5-122 23-5-121.
15	MCA↓■
16	
17	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
18	LHERE_IS_A_NEH_MCA_SECTION_IHAI_READS:
19	Section 1. Possession and use of antique slot machines
20	authorized conditions. (1) The provisions of 23-5-104 and
21	23-5-121 do not apply to antique slot machines possessed,
22	located, and used in accordance with this section. For the
23	purposes of this section an antique slot machine is a slot
24	machine manufactured prior to 1950, the operation of which

is exclusively mechanical in nature and is not aided in

1	whole or in part by any electronic means.
2	(2) Except as provided in subsection (3), antique slot
3	machines may be possessed, located, and operated only in a
4	private residential dwelling.
5	(3) Antique slot machines may be possessed or located
6	for purposes of display only and not for operation in any
7	public museum owned and operated by the state of Montana, or
B	a county, or a city.
9	(4) No antique slot machine may be operated for any
10	commercial or charitable purpose.
11	Section 2. Section 23-5-104, MCA, is amended to read:
12	#23-5-104. Slot machines possession unlawful ==
13	antiques=seempt. It til Except_as_provided_io ambsection=t21
14	[SECTION 1] it shall be a misdemeanor and punishable as
15	hereinafter provided for any person to use, possess,
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	operate, keep, or maintain for use or operation or
17	operate, keep, or maintain for use or operation or otherwise, anywhere within the state of Montana, any slot
17	,
	otherwise, anywhere within the state of Montana, any slot
18	otherwise, anywhere within the state of Montana, any slot
18	otherwise, anywhere within the state of Montana, any slot machine of any sort or kind whatspever. †21==Subsection=filt=docs=not=apply=to-on==antique==alot
18 19 20	otherwise, anywhere within the state of Montana, any slot machine of any sort or kind whatspever. 122-Subsection-filedocs-not-septy-to-on-setion-of-machine-that-siz-not-ward-in-the-operation-or-promotion-of
18 19 20 21	otherwise, anywhere within the state of Montana, any slot machine of any sort or kind whatspever. t21Subsaction-t11-des-not-soply-to-on-entique-slot machine-that-is-not-wasd-in-the-operation-or-or-or-or-or-or-or-or-or-or-or-or-or-

#23-5-122---Bestruction--of--gambling-apparatus----when

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6	determination is moder the supplies and is a color of the
7	ceturaed_to_its_ownerx=
8	SECTION 3. SECTION 23-5-121. MCA. IS AMENDED TO READ:
9	#23-5-121. Duty of peace officer to seize gambling
10	implements and apparatus <u>== exception- [1]</u> It shall be the
11	duty of every officer authorized to wake arrests to seize
12	every machine, apparatus, or instrument answering to the
13	description contained in this part or which may be used for
14	the carrying on or conducting of any game or games mentioned
15	in this part and to arrest the person actually or apparently
16	in possession or control thereof or of the premises in which
17	the same may be found, if any such person be present at the
18	time of the seizure, and to bring the machine, apparatus, or
19	instrument and the prisoner, if there be one, before a
20	committing magistrate.
21	(21_Ibis_section_does_not_apply_to_antique_slot
22	machines. the possession. location. or use of which is
23	autborized_by_[section_l]e*
24	SECTION 4. CODIFICATION INSTRUCTION. SECTION 1 IS

-3-

INTENDED TO BE CODIFIED AS AN INTEGRAL PART DE TITLE 23.

HB 0642/02

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