

HOUSE BILL NO. 236

INTRODUCED BY PAVLOVICH, DRISCOLL, HARP, ZABROCKI,  
JACK MOORE, NISBET, KEENAN, D. BROWN, HARRINGTON, KRUEGER,  
MANNING, JONES, C. SMITH, O'CONNELL, LYNCH, JACOBSON,  
STIMATZ, DANIELS, HAFFEY, BOYLAN, GALT, TVEIT, GOULD,  
MENAHAN, QUILICI, HOLLIDAY, KOEHNKE, BRADLEY, MARKS

IN THE HOUSE

January 17, 1985	Introduced and referred to Committee on Business and Labor.
February 7, 1985	Committee recommend bill do pass. Report adopted.  Bill printed and placed on members' desks.
February 8, 1985	Second reading, pass consideration.  On motion, consideration passed until the 33rd Legislative Day.
February 13, 1985	Second reading, do pass.  Considered correctly engrossed.
February 14, 1985	Third reading, passed.  Transmitted to Senate.

IN THE SENATE

February 15, 1985	Introduced and referred to Committee on Business and Industry.
March 28, 1985	Committee recommend bill be concurring in as amended. Report adopted.

March 28, 1985	Statement of Intent attached.  On motion, taken from second reading and rereferred to Committee on Business and Industry.
April 2, 1985	Fiscal Note requested.
April 5, 1985	Committee recommend bill be concurred in as amended. Report adopted.
April 8, 1985	Fiscal Note returned.  Second reading, concurred in as amended.
April 10, 1985	Third reading, concurred in. Ayes, 31; Noes, 19.  Returned to House with amendments and Statement of Intent.

IN THE HOUSE

April 10, 1985	Received from Senate.
April 11, 1985	On motion, consideration passed for the day.
April 12, 1985	Second reading, amendments and Statement of Intent not concurred in.  On motion, Conference Committee requested.
April 13, 1985	Conference Committee appointed.
April 16, 1985	Conference Committee dissolved.  On motion, Free Conference Committee requested and appointed.

April 22, 1985 Free Conference Committee reported.

April 23, 1985 Second reading, Free Conference Committee report adopted.

Third reading, Free Conference Committee report adopted.

Free Conference Committee report adopted by Senate.

April 24, 1985 Sent to enrolling.

Correctly enrolled.

Signed by President.

Signed by Speaker.

Delivered to Governor.

Returned from Governor with recommended amendments.

Second reading, Governor's amendments concurred in.

April 25, 1985 Third reading, Governor's amendments concurred in.

Transmitted to Senate.

IN THE SENATE

April 25, 1985 Received from House.

Second reading, Governor's amendments concurred in.

Third reading, Governor's amendments concurred in.

Returned to House.

IN THE HOUSE

April 25, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.



STATE OF MONTANA  
FISCAL NOTE

Amended  
REQUEST NO. FNN528-85  
Form BD-15

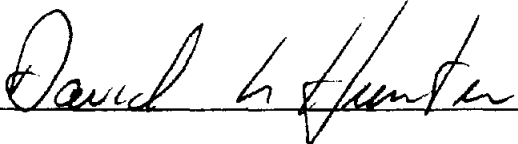
In compliance with a written request received April 2, 19 85, there is hereby submitted a Fiscal Note for H.B. 236 Amended pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

An act defining "card game" to include a game played on a mechanical or electronic video game machine.

ASSUMPTIONS

- 1) 5,000 machines would be licensed annually.
- 2) All machine locations would be visited at least quarterly.
- 3) The cost of administering the annual licensing is assumed to be equivalent to liquor licensing.

  
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BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: April 8, 1985

<u>FISCAL IMPACT:</u>	<u>FY1986</u>	<u>FY1987</u>
<u>Revenues</u>		
Licensing 5,000 x \$2,000	<u>\$10,000,000</u>	<u>\$10,000,000</u>
 <u>Expenditures</u>		
Personal Services	\$ 203,156	\$ 203,156
Operating Expenses	77,560	62,540
Equipment	41,500	0
Total Expenditures	<u>\$ 322,216</u>	<u>\$ 265,696</u>
 <u>Summary</u>		
Total Revenue	\$10,000,000	\$10,000,000
Total Operating Expenditures -		
General Fund	(322,216)	(265,696)
Counties and Cities	<u>(7,500,000)</u>	<u>(7,500,000)</u>
Net Revenue to General Fund	<u>\$ 2,177,784</u>	<u>\$ 2,234,304</u>
 <u>Revenue Distribution</u>		
State General Fund	\$ 2,177,784	\$ 2,234,304
Local Governments	7,500,000	7,500,000
Total	<u>\$ 9,677,784</u>	<u>\$ 9,734,304</u>

TECHNICAL OR MECHANICAL DEFECTS

The facsimile machines, which play poker under the guise of other games\*, now in play in various counties may undermine the revenue estimate by 40-60% if not made specifically illegal by statute.

\* "X-O Bingo," "Superbowl," "Dwarfs' Den," "Dodge City," "Match Game," "Sure Shot," "Frogs & Pharoes," "Castles," "Pixels", Etc.

APPROVED BY COMM. ON  
BUSINESS AND LABOR

*Handwritten notes on the left margin:*  
J. Frank Jackson  
D. Davis  
H. Hoff  
C. Taylor

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HOUSE BILL NO. 236  
INTRODUCED BY *Carlson, Smith, Hoff, Fabian*

*Pluslet, Don Baum, Kurt Kueper, Smith, Keener, Hallinger, Robert Manning, O'Connell*  
A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "CARD GAME" TO

INCLUDE A GAME PLAYED ON A MECHANICAL OR ELECTRONIC VIDEO  
GAME MACHINE; AMENDING SECTION 23-5-302, MCA."

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

Section 1. Section 23-5-302, MCA, is amended to read:

"23-5-302. Definitions. As used in this part and

unless the context requires otherwise, the following terms  
or phrases have the following meanings:

(1) "Authorized card game" means any card game  
permitted by this part.

(2) "Card game" means any game played with cards,  
including a game simulating a game played with cards but  
played on a mechanical or electronic video game machine, for  
which the prize is money or any item of value."

-End-



*Spurk  
Jalston  
Strom  
Dunn  
Hoff  
Coyne  
Holt  
Trivet*

HOUSE BILL NO. 236

*Thorne*

INTRODUCED BY

*Carlson, Smith, H.P.C. [unclear]*

*Wishet Doe Bunn Kurt Kuefer [unclear] Smith  
Koenig [unclear] Robert Manning O. [unclear]*

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "CARD GAME" TO

INCLUDE A GAME PLAYED ON A MECHANICAL OR ELECTRONIC VIDEO  
GAME MACHINE; AMENDING SECTION 23-5-302, MCA."

*Manahan  
Lindsi*

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

*Holliday  
Goldberg  
Bradley*

Section 1. Section 23-5-302, MCA, is amended to read:

"23-5-302. Definitions. As used in this part and

unless the context requires otherwise, the following terms  
or phrases have the following meanings:

(1) "Authorized card game" means any card game  
permitted by this part.

(2) "Card game" means any game played with cards,  
including a game simulating a game played with cards but  
played on a mechanical or electronic video game machine, for  
which the prize is money or any item of value."

-End-

SENATE STANDING COMMITTEE REPORT

April 3 19. 85

MR. PRESIDENT

BUSINESS & INDUSTRY

We, your committee on

HOUSE BILL 236

having had under consideration

No.

reading copy ( color )

REDEFINE "CARD GAMES" TO INCLUDE VIDEO GAME MACHINES

HOUSE BILL 236

Respectfully report as follows: That

No.

be amended as follows:

1. Title, lines 4 through 6.

Following: "AN ACT"

Strike: remainder of title

Insert: "PROVIDING FOR LICENSING AND PLACEMENT OF ELECTRONIC VIDEO DRAW POKER MACHINES; PROVIDING FOR DISTRIBUTION OF REVENUE; PROVIDING A PENALTY PROVISION; AND PROVIDING EFFECTIVE DATES."

2. Page 1.

Strike: everything following the enacting clause

Insert: "Section 1. Short title. [Sections 1 through 11] shall be known and may be cited as the "Video Draw Poker Machine Control Law of 1985".

Section 2. Definitions. As used in [sections 1 through 11], the following definitions apply:

(1) "Department" means the department of revenue.

(2) "Licensed establishment" means an establishment that is licensed to sell alcoholic beverages for consumption on the premises.

(continued)

HOUSE BILL 236 BUSINESS & INDUSTRY

April 3 19. 85

(3) "Licensee" means an individual, partnership, or corporation that has been issued a license by the department for the placement of video draw poker machines in a licensed establishment.

(4) "Video draw poker machine" means an electronic video game machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker, as provided in [sections 1 through 11], utilizing a video display and microprocessors in which, by the skill of the player or by chance, or both, the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, tokens, or anything else of value.

Section 3. Description and specifications. (1) Each video draw poker machine must:

(1) be inspected in the state of Montana for certification and licensure by the department;

(2) be connected with a system consisting of player-operated terminals. The terminals must be intelligent devices operated by the players in the manner specified in [sections 1 through 11].

(3) not have any switches, jumpers, wire posts, or any other means of manipulation that could affect the operation or outcome of a game; and

(4) offer only the game of draw poker and have the following method of operation:

(a) the cards must be shuffled after each hand of poker is dealt;

(b) the game must have one memory location for each card in the deck. The deck must be shuffled by use of a random number generator to exchange each card in the deck with another randomly selected card;

(c) after shuffling, five cards must be dealt from the top of the deck;

(d) any discarded cards must be replaced by remaining cards in the deck, starting with the sixth card and using the cards in the order of the deck;

(e) after the first five cards of a hand have been dealt, the player must be allowed to raise his wager up to the amount of his initial ante, not to exceed eight quarters;

(continued)

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XXXXXXXXXXXX

MSA

Chairman.

MSA

(f) the game must display the hands for which free games or credits will be awarded and the number of free games or credits for each hand;

(g) the machine must have doors to two locking areas, one area containing the logic board and software for the game draw poker and the other housing the cash compartment and mechanical meters. These areas must be locking and separated. Access to one from the other must not be allowed at any time.

(h) the machine must have two mechanisms, hereafter referred to as "mechanism 1 and mechanism 2," that accept quarters;

(i) the machine must use a color display with images of cards that closely resemble standard poker playing cards;

(j) the machine must be capable of printing a ticket voucher for the player at the completion of each game. If credits are owed the player, the ticket must contain:

- (i) the name of the licensed establishment;
- (ii) the name of the city, town, or county in which the licensed establishment is located;
- (iii) the value of the prize in numbers;
- (iv) the value of the prize in words;
- (v) the time of day, in hours and minutes in a 24-hour format;
- (vi) the date;
- (vii) the machine license number or serial number up to eight digits;
- (viii) the sequential number of the ticket voucher; and
- (ix) an encrypted validation number from which the validity of the prize can be determined;

(k) an exact copy of each printed ticket voucher must be printed and retained within the machine;

(l) the machine must have nonresettable mechanical meters housed in the cash compartment that keep a permanent record of:

- (i) coins accepted by each coin acceptor;
  - (ii) credits played by player;
  - (iii) credits won by player; and
  - (iv) credits printed out by the ticket voucher printer;
- (m) the machine must contain electronic metering using meters that record the following and display them on the video screen:

(i) total coins in mechanism 1, total coins in mechanism 2, and total coins in mechanisms 1 and 2 combined;

(continued)

(ii) total credits, total credits played, and total credits won;

(iii) total hands of poker played and total hands of poker won;

(iv) total winning hands, consisting of a pair, two pair, three of a kind, a straight, a flush, a full house, four of a kind, a straight flush, or five of a kind;

(v) total errors from the logic board random access memory; and

(vi) total examination of electronic meters;

(n) the machine may not have any functions or parameters adjustable by or through any separate video display or input codes, except for the adjustment of features that are wholly cosmetic;

(o) the machine must issue, by activation of an external switch, an accounting ticket containing a performance synopsis of the machine. The ticket must contain:

- (i) the name of the licensed establishment;
- (ii) the name of the city, town, or county in which the licensed establishment is located;
- (iii) the license number of the machine;
- (iv) the time of day, in hours and minutes in a 24-hour format;
- (v) the date; and
- (vi) the electronic meter readings required by subsection (l).

Section 4. Expected payback -- verification. The department shall prescribe the expected payback value of one credit played to be at least 80% of the value of a credit. Each machine must have an electronic accounting device that the department may use to verify the winning percentage.

Section 5. Limitation on amount of money played and value of prizes. A machine may not allow more than \$2 to be played on a game or award free games or credits in excess of the value of \$100 per hand.

(continued)

*MJH*

*MJH*

April 3, 1985

Section 6. Licensing by local governing bodies.

(1) Any city, town, or county governing body may issue to a person who meets the qualifications of [section 8] a license for video draw poker machines to be used on the premises of a licensed establishment. A machine may be licensed by a city or town if located in the city or town or by the county if the machine is not located in a city or town.

(2) In addition to the license fee paid under [section 10], a governing body may charge an annual license fee for each license issued under this section. The license expires on June 30 of each year, and the fee must be prorated.

Section 7. Powers and duties of the department -- licensing.

(1) The department shall administer the provisions of [sections 1 through 5 and 7 through 11].

(2) The department shall adopt rules implementing [sections 1 through 5 and 7 through 11] and, with respect to state licenses:

- (a) provide licensing procedures;
- (b) prescribe necessary application forms; and
- (c) grant or deny license applications.

(3) The department may not deny or place a condition on a license except for reasonable cause.

(4) The department is a criminal justice agency, and designated employees are granted peace officer status with powers of search, seizure, and arrest to regulate and control those persons licensed under [sections 1 through 5 and 7 through 11].

Section 8. State license qualifications -- limitations -- right to hearing.

(1) A person who meets the requirements of 16-4-401 (2) for a license to sell alcoholic beverages for consumption on the premises may be granted a license for the placement of video draw poker machines in a licensed establishment.

(2) A licensee may not make available for play on the premises of his licensed establishment more than five machines.

(3) A person denied a state license has the right to a hearing before the department. The hearing must be conducted in accordance with the provisions of the Montana Administrative Procedure Act.

(continued)

April 3, 1985

Section 9. Video draw poker machines -- possession -- play -- restriction. No person may place a video draw poker machine in his licensed establishment unless he is licensed under [section 10]. Machines licensed under [section 10] are legal, and it is legal to play such machines, except that a person under the legal age for consuming or possessing alcoholic beverages may not play a video draw poker machine. The provisions of Title 23, chapter 5, part 3, do not apply to or prohibit video draw poker machines or the playing of such machines.

Section 10. State license -- fee.

(1) The department of revenue, upon payment of the fee provided in subsection (2) and in conformance with rules adopted under [section 7] shall issue to the licensee a license for each video draw poker machine.

(2) The department shall charge an annual license fee of \$2,000 for each machine and shall deposit 25% of the fee in the state general fund and forward 75% of the fee to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county or municipal treasury. Counties are not entitled to proceeds from fees on licensed machines located in cities and towns. The license expires on June 30 of each year, and the fee is prorated.

Section 11. Investigations and violations. (1) The department shall make necessary investigations, suspend or revoke state licenses for violations of [sections 1 through 5 and 7 through 11], and hold hearings on such matters. A license may be suspended prior to a hearing upon a finding of danger to public health and welfare, but may not be revoked until the hearing is completed.

(2) A violation of [sections 1 through 5 and 7 through 11] or a rule promulgated under [section 7] is a criminal offense, and a fine not to exceed \$10,000 for the first violation and \$15,000 for a subsequent violation must be imposed.

(3) If a video draw poker machine is operated in violation of [sections 1 through 5 and 7 through 11], it may be seized under 23-5-121 and the provisions of 23-5-122 apply.

(continued)

*MSL*

*MSL*

April 3 1985

(4) Employees of the department designated as enforcement agents may investigate the background of license applicants to the extent judged necessary by the department, but no person may be investigated prior to his submission of an application for a license.

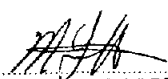
(5) Findings of suspected illegal activity must be reported to the appropriate law enforcement agency.

(6) Any peace officer of this state may arrest a person for tampering with a video draw poker machine, attempting or conspiring to manipulate the outcome or the payoff of a video draw poker machine, or manipulating the outcome or payoff of a video draw poker machine by physical tampering or other interference with the proper functioning of the machine.

Section 12. Effective dates--termination date. (1) This section and subsection (2) of section 7 are effective on passage and approval for the purpose of adoption of rules that are applicable on July 1, 1985.

(2) The remainder of this act is effective July 1, 1985."

AND AS AMENDED  
BE CONCURRED IN

  
SEN. MIKE HALLIGAN, Chairman

MR. PRESIDENT,  
WE, YOUR COMMITTEE ON BUSINESS AND INDUSTRY HAVING HAD UNDER CONSIDERATION HOUSE BILL NO. 236, ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT

House BILL NO. 236

A statement of intent is required for this bill because section 7 gives the department of revenue authority to make rules to implement and regulate the licensing of electronic video draw poker machines and the distribution of the fees received from the licensing of the machines.

It is the intent of the legislature that rules be adopted to protect the health, welfare, and safety of the citizens of the state of Montana and to assure compliance with this bill.

The rules should at a minimum:

- (1) ensure the integrity and security of the machines;
- (2) provide a method of examining the qualifications of state license applicants and licensees;
- (3) provide for investigation procedures;
- (4) provide a procedure for monitoring the machines in play to assure their compliance with this bill;
- (5) provide for a distinctive device that will serve as an identifying and validating mark for each machine that has been licensed and provide for a method to account for the devices;
- (6) provide that no machine be made available to the public for play unless it has been duly licensed, with the fee paid and validating device attached.

COMMITTEE OF THE WHOLE AMENDMENT

SENATE

Apr 8, 1985

DATE

3:10

TIME

SENATE BUSINESS AND INDUSTRY COMMITTEE  
REPORT OF APR. 3, 85 ON HOUSE BILL

No. 236

MR. CHAIRMAN: I MOVE TO AMEND

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~ as follows:  
Strike

- 1. Page 5, Section 8 (2) of inserted material.  
Following: "may not"  
Insert: "have on the premises or"
  
- 2. Page 6, Section 9 of inserted material.  
Following: "may place"  
Strike: "a video draw poker machine"  
Insert: "an electronic video game machine that simulates or offers a game of poker"

PC3HB236.751

COMMITTEE OF THE WHOLE AMENDMENT

SENATE

4-8-85

DATE

3:25 p.m.

TIME

SENATE BUSINESS & INDUSTRY STANDING  
COMMITTEE REPORT OF April 3, 1985  
on HOUSE BILL

No. 236

MR. CHAIRMAN: I MOVE TO AMEND

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~ has follows:  
Color

- 1. Page 5, Section 6.  
Following: subsection (2)  
Insert: (3) Such license fee may not exceed \$500.

KB

ADOPT  
REJECT

*M. A. Kelly*

*Jo*

ADOPT  
REJECT

*Van Valkenburg*  
VAN VALKENBURG

STATEMENT OF INTENT

HOUSE BILL 236

Senate Business and Industry Committee

1 public for play unless it has been duly licensed, with the  
2 fee paid and validating device attached.

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A statement of intent is required for this bill because section 7 gives the department of revenue authority to make rules to implement and regulate the licensing of electronic video draw poker machines and the distribution of the fees received from the licensing of the machines.

It is the intent of the legislature that rules be adopted to protect the health, welfare, and safety of the citizens of the state of Montana and to assure compliance with this bill.

The rules should at a minimum:

- (1) ensure the integrity and security of the machines;
- (2) provide a method of examining the qualifications of state license applicants and licensees;
- (3) provide for investigation procedures;
- (4) provide a procedure for monitoring the machines in play to assure their compliance with this bill;
- (5) provide for a distinctive device that will serve as an identifying and validating mark for each machine that has been licensed and provide for a method to account for the devices;
- (6) provide that no machine be made available to the

REFERENCE BILL  
HB 236



## 1 HOUSE BILL NO. 236

2 INTRODUCED BY PAVLOVICH, DRISCOLL, HARP, ZABROCKI,  
 3 JACK MOORE, NISBET, KEENAN, D. BROWN, HARRINGTON, KRUEGER,  
 4 MANNING, JONES, C. SMITH, O'CONNELL, LYNCH, JACOBSON,  
 5 STIMATZ, DANIELS, HAFFEY, BOYLAN, GALT, TVEIT, GOULD  
 6 MENAHAN, QUILICI, HOLLIDAY, KOEHNKE, BRADLEY, MARKS

7  
 8 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING ~~"CARD GAME"~~ TO  
 9 ~~INCLUDE A GAME PLAYED ON A MECHANICAL OR ELECTRONIC VIDEO~~  
 10 ~~GAME MACHINE, AMENDING SECTION 23-5-302, AND~~ PROVIDING FOR  
 11 LICENSING AND PLACEMENT OF ELECTRONIC VIDEO DRAW POKER  
 12 MACHINES; PROVIDING FOR DISTRIBUTION OF REVENUE; PROVIDING A  
 13 PENALTY PROVISION; AND PROVIDING EFFECTIVE DATES."

14  
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 (Refer to Third Reading Bill)

17 Strike everything after the enacting clause and insert:

18 Section 1. Short title. [Sections 1 through 11] shall  
 19 be known and may be cited as the "Video Draw Poker Machine  
 20 Control Law of 1985".

21 Section 2. Definitions. As used in [sections 1 through  
 22 11], the following definitions apply:

23 (1) "Department" means the department of revenue.

24 (2) "Licensed establishment" means an establishment  
 25 that is licensed to sell alcoholic beverages for consumption

1 on the premises.

2 (3) "Licensee" means an individual, partnership, or  
 3 corporation that has been issued a license by the department  
 4 for the placement of video draw poker machines in a licensed  
 5 establishment.

6 (4) "Video draw poker machine" means an electronic  
 7 video game machine that, upon insertion of cash, is  
 8 available to play or simulate the play of the game of draw  
 9 poker, as provided in [sections 1 through 11], utilizing a  
 10 video display and microprocessors in which, by the skill of  
 11 the player or by chance, or both, the player may receive  
 12 free games or credits that can be redeemed for cash. The  
 13 term does not include a machine that directly dispenses  
 14 coins, cash, tokens, or anything else of value.

15 Section 3. Description and specifications. Each video  
 16 draw poker machine must:

17 (1) be inspected in the state of Montana for  
 18 certification and licensure by the department;

19 (2) be connected with a system consisting of  
 20 player-operated terminals. The terminals must be intelligent  
 21 devices operated by the players in the manner specified in  
 22 [sections 1 through 11].

23 (3) not have any switches, jumpers, wire posts, or any  
 24 other means of manipulation that could affect the operation  
 25 or outcome of a game; and



1 (4) offer only the game of draw poker and have the  
2 following method of operation:

3 (a) the cards must be shuffled after each hand of  
4 poker is dealt;

5 (b) the game must have one memory location for each  
6 card in the deck. The deck must be shuffled by use of a  
7 random number generator to exchange each card in the deck  
8 with another randomly selected card.

9 (c) after shuffling, five cards must be dealt from the  
10 top of the deck;

11 (d) any discarded cards must be replaced by remaining  
12 cards in the deck, starting with the sixth card and using  
13 the cards in the order of the deck;

14 (e) after the first five cards of a hand have been  
15 dealt, the player must be allowed to raise his wager up to  
16 the amount of his initial ante, not to exceed eight  
17 quarters;

18 (f) the game must display the hands for which free  
19 games or credits will be awarded and the number of free  
20 games or credits for each hand;

21 (g) the machine must have doors to two locking areas,  
22 one area containing the logic board and software for the  
23 game draw poker and the other housing the cash compartment  
24 and mechanical meters. These areas must be locking and  
25 separated. Access to one from the other must not be allowed

1 at any time.

2 (h) the machine must have two mechanisms, hereinafter  
3 referred to as "mechanism 1" and "mechanism 2", that accept  
4 quarters;

5 (i) the machine must use a color display with images  
6 of cards that closely resemble standard poker playing cards;

7 (j) the machine must be capable of printing a ticket  
8 voucher for the player at the completion of each game. If  
9 credits are owed the player, the ticket must contain:

10 (i) the name of the licensed establishment;

11 (ii) the name of the city, town, or county in which the  
12 licensed establishment is located;

13 (iii) the value of the prize in numbers;

14 (iv) the value of the prize in words;

15 (v) the time of day, in hours and minutes in a 24-hour  
16 format;

17 (vi) the date;

18 (vii) the machine license number or serial number up to  
19 eight digits;

20 (viii) the sequential number of the ticket voucher; and

21 (ix) an encrypted validation number from which the  
22 validity of the prize can be determined;

23 (k) an exact copy of each printed ticket voucher must  
24 be printed and retained within the machine;

25 (l) the machine must have nonresettable mechanical

1 meters housed in the cash compartment that keep a permanent  
2 record of:

- 3 (i) coins accepted by each coin acceptor;
- 4 (ii) credits played by player;
- 5 (iii) credits won by player; and
- 6 (iv) credits printed out by the ticket voucher printer;
- 7 (m) the machine must contain electronic metering,  
8 using meters that record the following and display them on  
9 the video screen:
- 10 (i) total coins in mechanism 1, total coins in  
11 mechanism 2, and total coins in mechanisms 1 and 2 combined;
- 12 (ii) total credits, total credits played, and total  
13 credits won;
- 14 (iii) total hands of poker played and total hands of  
15 poker won;
- 16 (iv) total winning hands, consisting of a pair, two  
17 pair, three of a kind, a straight, a flush, a full house,  
18 four of a kind, a straight flush, or five of a kind;
- 19 (v) total errors from the logic board random access  
20 memory; and
- 21 (vi) total examination of electronic meters;
- 22 (n) the machine may not have any functions or  
23 parameters adjustable by or through any separate video  
24 display or input codes, except for the adjustment of  
25 features that are wholly cosmetic;

1 (o) the machine must issue, by activation of an  
2 external switch, an accounting ticket containing a  
3 performance synopsis of the machine. The ticket must  
4 contain:

- 5 (i) the name of the licensed establishment;
- 6 (ii) the name of the city, town, or county in which the  
7 licensed establishment is located;
- 8 (iii) the license number of the machine;
- 9 (iv) the time of day, in hours and minutes in a 24-hour  
10 format;
- 11 (v) the date; and
- 12 (vi) the electronic meter readings required by  
13 subsection (1).

14 Section 4. Expected payback -- verification. The  
15 department shall prescribe the expected payback value of one  
16 credit played to be at least 80% of the value of a credit.  
17 Each machine must have an electronic accounting device that  
18 the department may use to verify the winning percentage.

19 Section 5. Limitation on amount of money played and  
20 value of prizes. A machine may not allow more than \$2 to be  
21 played on a game or award free games or credits in excess of  
22 the value of \$100 per hand.

23 Section 6. Licensing by local governing bodies. (1)  
24 Any city, town, or county governing body may issue to a  
25 person who meets the qualifications of [section 8] a license

1 for video draw poker machines to be used on the premises of  
2 a licensed establishment. A machine may be licensed by a  
3 city or town if located in the city or town or by the county  
4 if the machine is not located in a city or town.

5 (2) In addition to the license fee paid under [section  
6 10], a governing body may charge an annual license fee for  
7 each license issued under this section. The license expires  
8 on June 30 of each year, and the fee must be prorated.

9 (3) SUCH LICENSE FEE MAY NOT EXCEED \$500.

10 Section 7. Powers and duties of the department --  
11 licensing. (1) The department shall administer the  
12 provisions of [sections 1 through 5 and 7 through 11].

13 (2) The department shall adopt rules implementing  
14 [sections 1 through 5 and 7 through 11] and, with respect to  
15 state licenses:

- 16 (a) provide licensing procedures;  
17 (b) prescribe necessary application forms; and  
18 (c) grant or deny license applications.

19 (3) The department may not deny or place a condition  
20 on a license except for reasonable cause.

21 (4) The department is a criminal justice agency, and  
22 designated employees are granted peace officer status with  
23 powers of search, seizure, and arrest to regulate and  
24 control those persons licensed under [sections 1 through 5  
25 and 7 through 11].

1 Section 8. State license qualifications --  
2 limitations -- right to hearing. (1) A person who meets the  
3 requirements of 16-4-401(2) for a license to sell alcoholic  
4 beverages for consumption on the premises may be granted a  
5 license for the placement of video draw poker machines in a  
6 licensed establishment.

7 (2) A licensee may not HAVE ON THE PREMISES OR make  
8 available for play on the premises of his licensed  
9 establishment more than five machines.

10 (3) A person denied a state license has the right to a  
11 hearing before the department. The hearing must be conducted  
12 in accordance with the provisions of the Montana  
13 Administrative Procedure Act.

14 Section 9. Video draw poker machines -- possession --  
15 play -- restriction. No person may place ~~a video draw poker~~  
16 machine AN ELECTRONIC VIDEO GAME MACHINE THAT SIMULATES OR  
17 OFFERS A GAME OF POKER in his licensed establishment unless  
18 he is licensed under [section 10]. Machines licensed under  
19 [section 10] are legal, and it is legal to play such  
20 machines, except that a person under the legal age for  
21 consuming or possessing alcoholic beverages may not play a  
22 video draw poker machine. The provisions of Title 23,  
23 chapter 5, part 3, do not apply to or prohibit video draw  
24 poker machines or the playing of such machines.

25 Section 10. State license -- fee. (1) The department

1 of revenue, upon payment of the fee provided in subsection  
 2 (2) and in conformance with rules adopted under [section 7],  
 3 shall issue to the licensee a license for each video draw  
 4 poker machine.

5 (2) The department shall charge an annual license fee  
 6 of \$2,000 for each machine and shall deposit 25% of the fee  
 7 in the state general fund and forward 75% of the fee to the  
 8 treasurer of the county or the clerk, finance officer, or  
 9 treasurer of the city or town in which the licensed machine  
 10 is located, for deposit to the county or municipal treasury.  
 11 Counties are not entitled to proceeds from fees on licensed  
 12 machines located in cities and towns. The license expires  
 13 on June 30 of each year, and the fee is prorated.

14 Section 11. Investigations and violations. (1) The  
 15 department shall make necessary investigations, suspend or  
 16 revoke state licenses for violations of [sections 1 through  
 17 5 and 7 through 11], and hold hearings on such matters. A  
 18 license may be suspended prior to a hearing upon a finding  
 19 of danger to public health and welfare but may not be  
 20 revoked until the hearing is completed.

21 (2) A violation of [sections 1 through 5 and 7 through  
 22 11] or a rule promulgated under [section 7] is a criminal  
 23 offense, and a fine not to exceed \$10,000 for the first  
 24 violation and \$15,000 for a subsequent violation must be  
 25 imposed.

1 (3) If a video draw poker machine is operated in  
 2 violation of [sections 1 through 5 and 7 through 11], it may  
 3 be seized under 23-5-121 and the provisions of 23-5-122  
 4 apply.

5 (4) Employees of the department designated as  
 6 enforcement agents may investigate the background of license  
 7 applicants to the extent judged necessary by the department,  
 8 but no person may be investigated prior to his submission of  
 9 an application for a license.

10 (5) Findings of suspected illegal activity must be  
 11 reported to the appropriate law enforcement agency.

12 (6) Any peace officer of this state may arrest a  
 13 person for tampering with a video draw poker machine,  
 14 attempting or conspiring to manipulate the outcome or the  
 15 payoff of a video draw poker machine, or manipulating the  
 16 outcome or payoff of a video draw poker machine by physical  
 17 tampering or other interference with the proper functioning  
 18 of the machine.

19 Section 12. Effective dates -- termination date. (1)  
 20 This section and subsection (2) of section 7 are effective  
 21 on passage and approval for the purpose of adoption of rules  
 22 that are applicable on July 1, 1985.

23 (2) The remainder of this act is effective July 1,  
 24 1985.

-End-

CONFERENCE COMMITTEE REPORT

Report No. \_\_\_\_\_  
April 22 19 85

MR. PRESIDENT

April 22 1985

We, your \_\_\_\_\_ Conference Committee on

House Bill 236, reference copy (salmon),

met and considered House Bill 236 in its entirety.

We recommend as follows:

- 1. Title, line 13.  
Following: "DATES"  
Insert: "AND A TERMINATION DATE"
- 2. Page 1, line 18.  
Following: "through"  
Strike: "11"  
Insert: "12"
- 3. Page 1, line 22.  
Following: line 21  
Strike: "11"  
Insert: "12"
- 4. Page 2, line 4.  
Following: "placement"  
Insert: "and operation"  
Following: "in"  
Strike: "a"  
Insert: "the"

And that this Conference Committee report be adopted

FOR THE SENATE

*Christlaens*  
CHRISTLAENS, CLY  
*Halligan*  
HALLIGAN  
*Thayer*  
THAYER

FOR THE HOUSE

JONES  
*Calovich*  
PAVLOVICH  
*Merce*  
MERCER  
*Spatt*  
SPATT

ADOPT REJECT

4a. Page 2, line 5.  
Following: "establishment"  
Insert: "of the individual, partnership, or corporation"

5. Page 2, line 9.  
Following: "through"  
Strike: "11"  
Insert: "12"

6. Page 2, line 15.  
Following: line 14  
Insert: "(5) 'Used video draw poker machine' means a video draw poker machine, as that term is defined in this section, which is owned or possessed by an applicant on the day he applies for a license for the used machine and which was owned or operated in the state prior to February 3, 1984."

7. Page 2, line 22.  
Following: "through"  
Strike: "11"  
Insert: "12"

8. Page 3, line 15.  
Following: "player"  
Strike: "must"  
Insert: "may"

9. Page 6, line 13.  
Following: "subsection"  
Strike: "(1)"  
Insert: "(m)"

10. Page 7, line 1.  
Following: "for"  
Insert: "each"  
Following: "poker"  
Strike: "machines"  
Insert: "machine"

11. Page 7, line 9.  
Following: "EXCEED"  
Strike: "\$500"  
Insert: "\$1,000"

12. Page 7, line 12.  
Following: the second "through"  
Strike: "11"  
Insert: "12"

April 22 19 85

April 22 1985

13. Page 7, line 14.  
Following: the second "through"  
Strike: "11"  
Insert: "12"

14. Page 7, line 25.  
Following: "through"  
Strike: "11"  
Insert: "12"

15. Page 8, lines 2 and 3.  
Following: "who" on line 2  
Strike: remainder of line 2 through "license" on line 3  
Insert: "has been granted a license under 16-4-401(2)"

16. Page 8, line 5.  
Following: "in"  
Strike: "a"  
Insert: "his"

17. Page 8, lines 20 and 21.  
Following: "the"  
Strike: "legal age for consuming or possessing alcoholic beverages"  
Insert: "age of 18 years"

18. Page 9, line 6.  
Strike: "\$2,000"  
Insert: "\$1,500"  
Following: "deposit"  
Strike: "25%"  
Insert: "one-third"

19. Page 9, line 7.  
Following: "fund"  
Insert: ", except that it may retain up to 8% of that one-third to administer [sections 1 through 5 and 7 through 12],"  
Following: "forward"  
Strike: "75%"  
Insert: "two-thirds"

20. Page 9, line 17.  
Following: "through"  
Strike: "11"  
Insert: "12"

21. Page 9, line 22.  
Following: line 21  
Strike: "11"  
Insert: "12"

22. Page 10, line 2.  
Following: the second "through"  
Strike: "11"  
Insert: "12"

23. Page 10, line 19.  
Following: line 18  
Insert: "Section 12. Used video draw poker machines. A used video draw poker machine may be licensed under [section 10] without meeting the requirements of subsections (4)(j), (4)(k), and (4)(o) of [section 3] if the applicant for licensure can establish to the satisfaction of the department that, on the date of application, he owns or possesses a machine which was owned or operated in the state prior to February 3, 1984. A license issued under this section expires 1 year from the date of issuance or on July 1, 1987, whichever occurs first."

Renumber: subsequent section

24. Page 10, line 25.  
Following: line 24  
Insert: "(3) Section 12 terminates July 1, 1987."

GOVERNOR'S PROPOSED AMENDMENTS TO  
HOUSE BILL NO. 236  
REFERENCE BILL: INCLUDES FREE  
CONFERENCE COMMITTEE REPORT DATED 4/22/85  
April 24, 1985

1. Title, Line 12.  
Following: " DISTRIBUTION "  
Insert: "AND APPROPRIATION"
  
2. Page 9, line 15.  
Following: "machine"  
Strike: "and"  
Insert: ". The department shall retain 5% of the total license fee collected in fiscal years 1986 and 1987 and shall retain 3% thereafter for purposes of administering sections 1 through 5 and 7 through 12 of this act."  
  
Following: "and"  
Insert: "The department
  
3. Page 9, line 16.  
Following: "of the"  
Insert: "remaining"
  
4. Page 9, lines 16 through 18.  
Following: "fund" on line 16  
Strike: " , except " on line 16 through " 12], " on line 18
  
5. Page 9, line 19.  
Following: "of the"  
Insert: "remaining"
  
6. Page 9, line 25.  
Following: "prorated."  
Insert: "[The 2/3 portion of the annual fee is statutorily appropriated to the department as provided in [section 2 of House Bill No.12] for deposit to the county or municipal treasury.]"

7. Page 11, line 16.  
Following: line 15  
Insert: Section 13. Appropriation. The 5% portion of the license fees retained by the department in fiscal years 1986 and 1987, as provided in [section 10 of this act] is appropriated to the department for the biennium ending June 30, 1987, for purposes of administering this act.
8. Page 11, line 16.  
Following: line 15  
Insert: Section 14. Coordination instruction.  
The bracketed language in Section 10 of this act is effective only if House Bill No. 12 of the 49th Legislature is passed and approved. In addition, if House Bill No. 12 is passed and approved, a reference to section 10 of this act is included in the subsection of House Bill No. 12 listing all sections containing statutory appropriations.  
Renumber: subsequent sections

-END-



## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 236

3 Senate Business and Industry Committee

4

5 A statement of intent is required for this bill because  
6 section 7 gives the department of revenue authority to make  
7 rules to implement and regulate the licensing of electronic  
8 video draw poker machines and the distribution of the fees  
9 received from the licensing of the machines.

10 It is the intent of the legislature that rules be  
11 adopted to protect the health, welfare, and safety of the  
12 citizens of the state of Montana and to assure compliance  
13 with this bill.

14 The rules should at a minimum:

15 (1) ensure the integrity and security of the machines;

16 (2) provide a method of examining the qualifications  
17 of state license applicants and licensees;

18 (3) provide for investigation procedures;

19 (4) provide a procedure for monitoring the machines in  
20 play to assure their compliance with this bill;

21 (5) provide for a distinctive device that will serve  
22 as an identifying and validating mark for each machine that  
23 has been licensed and provide for a method to account for  
24 the devices;

25 (6) provide that no machine be made available to the

1 public for play unless it has been duly licensed, with the

2 fee paid and validating device attached.

REFERENCE BILL: Includes Free  
Conference Committee Report

Dated 4-22-85 **HB23**

## 1 HOUSE BILL NO. 236

2 INTRODUCED BY PAVLOVICH, DRISCOLL, HARP, ZABROCKI,  
3 JACK MOORE, NISBET, KEENAN, D. BROWN, HARRINGTON, KRUEGER,  
4 MANNING, JONES, C. SMITH, O'CONNELL, LYNCH, JACOBSON,  
5 STIMATZ, DANIELS, HAFPEY, BOYLAN, GALT, TVEIT, GOULD  
6 MENAHAN, QUILICI, HOLLIDAY, KOEHNKE, BRADLEY, MARKS

7  
8 A BILL FOR AN ACT ENTITLED: "AN ACT ~~DEFINING~~ "CARD GAME" TO  
9 ~~INCLUDE A GAME PLAYED ON A MECHANICAL OR ELECTRONIC VIDEO~~  
10 ~~GAME MACHINE; AMENDING SECTION 23-5-302; AND~~ PROVIDING FOR  
11 LICENSING AND PLACEMENT OF ELECTRONIC VIDEO DRAW POKER  
12 MACHINES; PROVIDING FOR DISTRIBUTION OF REVENUE; PROVIDING A  
13 PENALTY PROVISION; AND PROVIDING EFFECTIVE DATES AND A  
14 TERMINATION DATE."

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 (Refer to Third Reading Bill)

18 Strike everything after the enacting clause and insert:

19 Section 1. Short title. [Sections 1 through ~~11~~ 12]  
20 shall be known and may be cited as the "Video Draw Poker  
21 Machine Control Law of 1985".

22 Section 2. Definitions. As used in [sections 1 through  
23 ~~11~~ 12], the following definitions apply:

24 (1) "Department" means the department of revenue.

25 (2) "Licensed establishment" means an establishment

1 that is licensed to sell alcoholic beverages for consumption  
2 on the premises.

3 (3) "Licensee" means an individual, partnership, or  
4 corporation that has been issued a license by the department  
5 for the placement AND OPERATION of video draw poker machines  
6 in a THE licensed establishment OF THE INDIVIDUAL,  
7 PARTNERSHIP, OR CORPORATION.

8 (4) "USED VIDEO DRAW POKER MACHINE" MEANS A VIDEO DRAW  
9 POKER MACHINE, AS THAT TERM IS DEFINED IN THIS SECTION,  
10 WHICH IS OWNED OR POSSESSED BY AN APPLICANT ON THE DAY HE  
11 APPLIES FOR A LICENSE FOR THE USED MACHINE AND WHICH WAS  
12 OWNED OR OPERATED IN THE STATE PRIOR TO FEBRUARY 3, 1984.

13 ~~(4)~~(5) "Video draw poker machine" means an electronic  
14 video game machine that, upon insertion of cash, is  
15 available to play or simulate the play of the game of draw  
16 poker, as provided in [sections 1 through ~~11~~12], utilizing a  
17 video display and microprocessors in which, by the skill of  
18 the player or by chance, or both, the player may receive  
19 free games or credits that can be redeemed for cash. The  
20 term does not include a machine that directly dispenses  
21 coins, cash, tokens, or anything else of value.

22 Section 3. Description and specifications. Each video  
23 draw poker machine must:

24 (1) be inspected in the state of Montana for  
25 certification and licensure by the department;

1 (2) be connected with a system consisting of  
2 player-operated terminals. The terminals must be intelligent  
3 devices operated by the players in the manner specified in  
4 [sections 1 through ~~11~~ 12].

5 (3) not have any switches, jumpers, wire posts, or any  
6 other means of manipulation that could affect the operation  
7 or outcome of a game; and

8 (4) offer only the game of draw poker and have the  
9 following method of operation:

10 (a) the cards must be shuffled after each hand of  
11 poker is dealt;

12 (b) the game must have one memory location for each  
13 card in the deck. The deck must be shuffled by use of a  
14 random number generator to exchange each card in the deck  
15 with another randomly selected card.

16 (c) after shuffling, five cards must be dealt from the  
17 top of the deck;

18 (d) any discarded cards must be replaced by remaining  
19 cards in the deck, starting with the sixth card and using  
20 the cards in the order of the deck;

21 (e) after the first five cards of a hand have been  
22 dealt, the player must MAY be allowed to raise his wager up  
23 to the amount of his initial ante, not to exceed eight  
24 quarters;

25 (f) the game must display the hands for which free

1 games or credits will be awarded and the number of free  
2 games or credits for each hand;

3 (g) the machine must have doors to two locking areas,  
4 one area containing the logic board and software for the  
5 game draw poker and the other housing the cash compartment  
6 and mechanical meters. These areas must be locking and  
7 separated. Access to one from the other must not be allowed  
8 at any time.

9 (h) the machine must have two mechanisms, hereinafter  
10 referred to as "mechanism 1" and "mechanism 2", that accept  
11 quarters;

12 (i) the machine must use a color display with images  
13 of cards that closely resemble standard poker playing cards;

14 (j) the machine must be capable of printing a ticket  
15 voucher for the player at the completion of each game. If  
16 credits are owed the player, the ticket must contain:

17 (i) the name of the licensed establishment;

18 (ii) the name of the city, town, or county in which the  
19 licensed establishment is located;

20 (iii) the value of the prize in numbers;

21 (iv) the value of the prize in words;

22 (v) the time of day, in hours and minutes in a 24-hour  
23 format;

24 (vi) the date;

25 (vii) the machine license number or serial number up to

1 eight digits;

2 (viii) the sequential number of the ticket voucher; and

3 (ix) an encrypted validation number from which the

4 validity of the prize can be determined;

5 (k) an exact copy of each printed ticket voucher must

6 be printed and retained within the machine;

7 (l) the machine must have nonresettable mechanical

8 meters housed in the cash compartment that keep a permanent

9 record of:

10 (i) coins accepted by each coin acceptor;

11 (ii) credits played by player;

12 (iii) credits won by player; and

13 (iv) credits printed out by the ticket voucher printer;

14 (m) the machine must contain electronic metering,

15 using meters that record the following and display them on

16 the video screen:

17 (i) total coins in mechanism 1, total coins in

18 mechanism 2, and total coins in mechanisms 1 and 2 combined;

19 (ii) total credits, total credits played, and total

20 credits won;

21 (iii) total hands of poker played and total hands of

22 poker won;

23 (iv) total winning hands, consisting of a pair, two

24 pair, three of a kind, a straight, a flush, a full house,

25 four of a kind, a straight flush, or five of a kind;

1 (v) total errors from the logic board random access

2 memory; and

3 (vi) total examination of electronic meters;

4 (n) the machine may not have any functions or

5 parameters adjustable by or through any separate video

6 display or input codes, except for the adjustment of

7 features that are wholly cosmetic;

8 (o) the machine must issue, by activation of an

9 external switch, an accounting ticket containing a

10 performance synopsis of the machine. The ticket must

11 contain:

12 (i) the name of the licensed establishment;

13 (ii) the name of the city, town, or county in which the

14 licensed establishment is located;

15 (iii) the license number of the machine;

16 (iv) the time of day, in hours and minutes in a 24-hour

17 format;

18 (v) the date; and

19 (vi) the electronic meter readings required by

20 subsection f(7) (M).

21 Section 4. Expected payback -- verification. The

22 department shall prescribe the expected payback value of one

23 credit played to be at least 80% of the value of a credit.

24 Each machine must have an electronic accounting device that

25 the department may use to verify the winning percentage.

1 Section 5. Limitation on amount of money played and  
2 value of prizes. A machine may not allow more than \$2 to be  
3 played on a game or award free games or credits in excess of  
4 the value of \$100 per hand.

5 Section 6. Licensing by local governing bodies. (1)  
6 Any city, town, or county governing body may issue to a  
7 person who meets the qualifications of [section 8] a license  
8 for EACH video draw poker machines MACHINE to be used on the  
9 premises of a licensed establishment. A machine may be  
10 licensed by a city or town if located in the city or town or  
11 by the county if the machine is not located in a city or  
12 town.

13 (2) In addition to the license fee paid under [section  
14 10], a governing body may charge an annual license fee for  
15 each license issued under this section. The license expires  
16 on June 30 of each year, and the fee must be prorated.

17 (3) SUCH LICENSE FEE MAY NOT EXCEED \$500 \$1,000.

18 Section 7. Powers and duties of the department --  
19 licensing. (1) The department shall administer the  
20 provisions of [sections 1 through 5 and 7 through ~~11~~ 12].

21 (2) The department shall adopt rules implementing  
22 [sections 1 through 5 and 7 through ~~11~~ 12] and, with respect  
23 to state licenses:

24 (a) provide licensing procedures;

25 (b) prescribe necessary application forms; and

1 (c) grant or deny license applications.

2 (3) The department may not deny or place a condition  
3 on a license except for reasonable cause.

4 (4) The department is a criminal justice agency, and  
5 designated employees are granted peace officer status with  
6 powers of search, seizure, and arrest to regulate and  
7 control those persons licensed under [sections 1 through 5  
8 and 7 through ~~11~~ 12].

9 Section 8. State license qualifications --  
10 limitations -- right to hearing. (1) A person who meets--the  
11 ~~requirements of 16-4-401(2) for a license~~ HAS BEEN GRANTED A  
12 LICENSE UNDER 16-4-401(2) to sell alcoholic beverages for  
13 consumption on the premises may be granted a license for the  
14 placement of video draw poker machines in a HIS licensed  
15 establishment.

16 (2) A licensee may not HAVE ON THE PREMISES OR make  
17 available for play on the premises of his licensed  
18 establishment more than five machines.

19 (3) A person denied a state license has the right to a  
20 hearing before the department. The hearing must be conducted  
21 in accordance with the provisions of the Montana  
22 Administrative Procedure Act.

23 Section 9. Video draw poker machines -- possession --  
24 play -- restriction. No person may place a video draw poker  
25 machine AN ELECTRONIC VIDEO GAME MACHINE THAT SIMULATES OR

1 OFFERS A GAME OF POKER in his licensed establishment unless  
 2 he is licensed under [section 10]. Machines licensed under  
 3 [section 10] are legal, and it is legal to play such  
 4 machines, except that a person under the ~~legal--age--for~~  
 5 ~~consuming--or--possessing--alcoholic--beverages~~ AGE OF 18 YEARS  
 6 may not play a video draw poker machine. The provisions of  
 7 Title 23, chapter 5, part 3, do not apply to or prohibit  
 8 video draw poker machines or the playing of such machines.

9 Section 10. State license -- fee. (1) The department  
 10 of revenue, upon payment of the fee provided in subsection  
 11 (2) and in conformance with rules adopted under [section 7],  
 12 shall issue to the licensee a license for each video draw  
 13 poker machine.

14 (2) The department shall charge an annual license fee  
 15 of ~~\$2,000~~ \$1,500 for each machine and shall deposit 25%  
 16 ONE-THIRD of the fee in the state general fund, EXCEPT THAT  
 17 IT MAY RETAIN UP TO 8% OF THAT ONE-THIRD TO ADMINISTER  
 18 (SECTIONS 1 THROUGH 5 AND 7 THROUGH 12), and forward 75%  
 19 TWO-THIRDS of the fee to the treasurer of the county or the  
 20 clerk, finance officer, or treasurer of the city or town in  
 21 which the licensed machine is located, for deposit to the  
 22 county or municipal treasury. Counties are not entitled to  
 23 proceeds from fees on licensed machines located in cities  
 24 and towns. The license expires on June 30 of each year, and  
 25 the fee is prorated.

1 Section 11. Investigations and violations. (1) The  
 2 department shall make necessary investigations, suspend or  
 3 revoke state licenses for violations of [sections 1 through  
 4 5 and 7 through ~~11~~ 12], and hold hearings on such matters. A  
 5 license may be suspended prior to a hearing upon a finding  
 6 of danger to public health and welfare but may not be  
 7 revoked until the hearing is completed.

8 (2) A violation of [sections 1 through 5 and 7 through  
 9 ~~11~~ 12] or a rule promulgated under [section 7] is a criminal  
 10 offense, and a fine not to exceed \$10,000 for the first  
 11 violation and \$15,000 for a subsequent violation must be  
 12 imposed.

13 (3) If a video draw poker machine is operated in  
 14 violation of [sections 1 through 5 and 7 through ~~11~~ 12], it  
 15 may be seized under 23-5-121 and the provisions of 23-5-122  
 16 apply.

17 (4) Employees of the department designated as  
 18 enforcement agents may investigate the background of license  
 19 applicants to the extent judged necessary by the department,  
 20 but no person may be investigated prior to his submission of  
 21 an application for a license.

22 (5) Findings of suspected illegal activity must be  
 23 reported to the appropriate law enforcement agency.

24 (6) Any peace officer of this state may arrest a  
 25 person for tampering with a video draw poker machine,

1 attempting or conspiring to manipulate the outcome or the  
2 payoff of a video draw poker machine, or manipulating the  
3 outcome or payoff of a video draw poker machine by physical  
4 tampering or other interference with the proper functioning  
5 of the machine.

6 SECTION 12. USED VIDEO DRAW POKER MACHINES. A USED  
7 VIDEO DRAW POKER MACHINE MAY BE LICENSED UNDER [SECTION 10]  
8 WITHOUT MEETING THE REQUIREMENTS OF [SUBSECTIONS (4)(J),  
9 (4)(K), AND (4)(O) OF SECTION 3] IF THE APPLICANT FOR  
10 LICENSURE CAN ESTABLISH TO THE SATISFACTION OF THE  
11 DEPARTMENT THAT, ON THE DATE OF APPLICATION, HE OWNS OR  
12 POSSESSES A MACHINE WHICH WAS OWNED OR OPERATED IN THE STATE  
13 PRIOR TO FEBRUARY 3, 1984. A LICENSE ISSUED UNDER THIS  
14 SECTION EXPIRES 1 YEAR FROM THE DATE OF ISSUANCE OR ON JULY  
15 1, 1987, WHICHEVER OCCURS FIRST.

16 Section 13. Effective dates -- termination date. (1)  
17 This section and subsection (2) of section 7 are effective  
18 on passage and approval for the purpose of adoption of rules  
19 that are applicable on July 1, 1985.

20 (2) The remainder of this act is effective July 1,  
21 1985.

22 (3) SECTION 12 TERMINATES JULY 1, 1987.

-End-

STATEMENT OF INTENT

HOUSE BILL 236

Senate Business and Industry Committee

A statement of intent is required for this bill because section 7 gives the department of revenue authority to make rules to implement and regulate the licensing of electronic video draw poker machines and the distribution of the fees received from the licensing of the machines.

It is the intent of the legislature that rules be adopted to protect the health, welfare, and safety of the citizens of the state of Montana and to assure compliance with this bill.

The rules should at a minimum:

- (1) ensure the integrity and security of the machines;
- (2) provide a method of examining the qualifications of state license applicants and licensees;
- (3) provide for investigation procedures;
- (4) provide a procedure for monitoring the machines in play to assure their compliance with this bill;
- (5) provide for a distinctive device that will serve as an identifying and validating mark for each machine that has been licensed and provide for a method to account for the devices;
- (6) provide that no machine be made available to the

public for play unless it has been duly licensed, with the fee paid and validating device attached.





## HOUSE BILL NO. 236

INTRODUCED BY PAVLOVICH, DRISCOLL, HARP, ZABROCKI,  
 JACK MOORE, NISBET, KEENAN, D. BROWN, HARRINGTON, KRUEGER,  
 MANNING, JONES, C. SMITH, O'CONNELL, LYNCH, JACOBSON,  
 STIMATZ, DANIELS, HAFPEY, BOYLAN, GALT, TVEIT, GOULD  
 MENAHAN, QUILICI, HOLLIDAY, KOEHNKE, BRADLEY, MARKS

A BILL FOR AN ACT ENTITLED: ~~"AN ACT DEFINING "CARD GAME" TO~~  
~~INCLUDE A GAME PLAYED ON A MECHANICAL OR ELECTRONIC VIDEO~~  
~~GAME MACHINE; AMENDING SECTION 23-5-302, MCA; PROVIDING FOR~~  
LICENSING AND PLACEMENT OF ELECTRONIC VIDEO DRAW POKER  
MACHINES; PROVIDING FOR DISTRIBUTION AND APPROPRIATION OF  
REVENUE; PROVIDING A PENALTY PROVISION; AND PROVIDING  
EFFECTIVE DATES AND A TERMINATION DATE."

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

(Refer to Third Reading Bill)

Strike everything after the enacting clause and insert:

Section 1. Short title. [Sections 1 through ~~11~~ 12]  
 shall be known and may be cited as the "Video Draw Poker  
 Machine Control Law of 1985".

Section 2. Definitions. As used in [sections 1 through  
~~11~~ 12], the following definitions apply:

- (1) "Department" means the department of revenue.
- (2) "Licensed establishment" means an establishment

that is licensed to sell alcoholic beverages for consumption  
 on the premises.

(3) "Licensee" means an individual, partnership, or  
 corporation that has been issued a license by the department  
 for the placement AND OPERATION of video draw poker machines  
 in a THE licensed establishment OF THE INDIVIDUAL,  
PARTNERSHIP, OR CORPORATION.

(4) "USED VIDEO DRAW POKER MACHINE" MEANS A VIDEO DRAW  
POKER MACHINE, AS THAT TERM IS DEFINED IN THIS SECTION,  
WHICH IS OWNED OR POSSESSED BY AN APPLICANT ON THE DAY HE  
APPLIES FOR A LICENSE FOR THE USED MACHINE AND WHICH WAS  
OWNED OR OPERATED IN THE STATE PRIOR TO FEBRUARY 3, 1984.

(5) "Video draw poker machine" means an electronic  
 video game machine that, upon insertion of cash, is  
 available to play or simulate the play of the game of draw  
 poker, as provided in [sections 1 through ~~11~~ 12], utilizing a  
 video display and microprocessors in which, by the skill of  
 the player or by chance, or both, the player may receive  
 free games or credits that can be redeemed for cash. The  
 term does not include a machine that directly dispenses  
 coins, cash, tokens, or anything else of value.

Section 3. Description and specifications. Each video  
 draw poker machine must:

- (1) be inspected in the state of Montana for  
 certification and licensure by the department;

1 (2) be connected with a system consisting of  
2 player-operated terminals. The terminals must be intelligent  
3 devices operated by the players in the manner specified in  
4 [sections 1 through ~~11~~ 12].

5 (3) not have any switches, jumpers, wire posts, or any  
6 other means of manipulation that could affect the operation  
7 or outcome of a game; and

8 (4) offer only the game of draw poker and have the  
9 following method of operation:

10 (a) the cards must be shuffled after each hand of  
11 poker is dealt;

12 (b) the game must have one memory location for each  
13 card in the deck. The deck must be shuffled by use of a  
14 random number generator to exchange each card in the deck  
15 with another randomly selected card.

16 (c) after shuffling, five cards must be dealt from the  
17 top of the deck;

18 (d) any discarded cards must be replaced by remaining  
19 cards in the deck, starting with the sixth card and using  
20 the cards in the order of the deck;

21 (e) after the first five cards of a hand have been  
22 dealt, the player must MAY be allowed to raise his wager up  
23 to the amount of his initial ante, not to exceed eight  
24 quarters;

25 (f) the game must display the hands for which free

1 games or credits will be awarded and the number of free  
2 games or credits for each hand;

3 (g) the machine must have doors to two locking areas,  
4 one area containing the logic board and software for the  
5 game draw poker and the other housing the cash compartment  
6 and mechanical meters. These areas must be locking and  
7 separated. Access to one from the other must not be allowed  
8 at any time.

9 (h) the machine must have two mechanisms, hereinafter  
10 referred to as "mechanism 1" and "mechanism 2", that accept  
11 quarters;

12 (i) the machine must use a color display with images  
13 of cards that closely resemble standard poker playing cards;

14 (j) the machine must be capable of printing a ticket  
15 voucher for the player at the completion of each game. If  
16 credits are owed the player, the ticket must contain:

17 (i) the name of the licensed establishment;

18 (ii) the name of the city, town, or county in which the  
19 licensed establishment is located;

20 (iii) the value of the prize in numbers;

21 (iv) the value of the prize in words;

22 (v) the time of day, in hours and minutes in a 24-hour  
23 format;

24 (vi) the date;

25 (vii) the machine license number or serial number up to

1 eight digits;

2 (viii) the sequential number of the ticket voucher; and

3 (ix) an encrypted validation number from which the

4 validity of the prize can be determined;

5 (k) an exact copy of each printed ticket voucher must

6 be printed and retained within the machine;

7 (l) the machine must have nonresettable mechanical

8 meters housed in the cash compartment that keep a permanent

9 record of:

10 (i) coins accepted by each coin acceptor;

11 (ii) credits played by player;

12 (iii) credits won by player; and

13 (iv) credits printed out by the ticket voucher printer;

14 (m) the machine must contain electronic metering,

15 using meters that record the following and display them on

16 the video screen:

17 (i) total coins in mechanism 1, total coins in

18 mechanism 2, and total coins in mechanisms 1 and 2 combined;

19 (ii) total credits, total credits played, and total

20 credits won;

21 (iii) total hands of poker played and total hands of

22 poker won;

23 (iv) total winning hands, consisting of a pair, two

24 pair, three of a kind, a straight, a flush, a full house,

25 four of a kind, a straight flush, or five of a kind;

1 (v) total errors from the logic board random access

2 memory; and

3 (vi) total examination of electronic meters;

4 (n) the machine may not have any functions or

5 parameters adjustable by or through any separate video

6 display or input codes, except for the adjustment of

7 features that are wholly cosmetic;

8 (o) the machine must issue, by activation of an

9 external switch, an accounting ticket containing a

10 performance synopsis of the machine. The ticket must

11 contain:

12 (i) the name of the licensed establishment;

13 (ii) the name of the city, town, or county in which the

14 licensed establishment is located;

15 (iii) the license number of the machine;

16 (iv) the time of day, in hours and minutes in a 24-hour

17 format;

18 (v) the date; and

19 (vi) the electronic meter readings required by

20 subsection ~~f1~~ (4)(M).

21 Section 4. Expected payback -- verification. The

22 department shall prescribe the expected payback value of one

23 credit played to be at least 80% of the value of a credit.

24 Each machine must have an electronic accounting device that

25 the department may use to verify the winning percentage.

1 Section 5. Limitation on amount of money played and  
2 value of prizes. A machine may not allow more than \$2 to be  
3 played on a game or award free games or credits in excess of  
4 the value of \$100 per hand.

5 Section 6. Licensing by local governing bodies. (1)  
6 Any city, town, or county governing body may issue to a  
7 person who meets the qualifications of [section 8] a license  
8 for EACH video draw poker machines MACHINE to be used on the  
9 premises of a licensed establishment. A machine may be  
10 licensed by a city or town if located in the city or town or  
11 by the county if the machine is not located in a city or  
12 town.

13 (2) In addition to the license fee paid under [section  
14 10], a governing body may charge an annual license fee for  
15 each license issued under this section. The license expires  
16 on June 30 of each year, and the fee must be prorated.

17 (3) SUCH LICENSE FEE MAY NOT EXCEED \$500 \$1,000.

18 Section 7. Powers and duties of the department --  
19 licensing. (1) The department shall administer the  
20 provisions of [sections 1 through 5 and 7 through 12].

21 (2) The department shall adopt rules implementing  
22 [sections 1 through 5 and 7 through 12] and, with respect  
23 to state licenses:

- 24 (a) provide licensing procedures;  
25 (b) prescribe necessary application forms; and

1 (c) grant or deny license applications.

2 (3) The department may not deny or place a condition  
3 on a license except for reasonable cause.

4 (4) The department is a criminal justice agency, and  
5 designated employees are granted peace officer status with  
6 powers of search, seizure, and arrest to regulate and  
7 control those persons licensed under [sections 1 through 5  
8 and 7 through 12].

9 Section 8. State license qualifications --  
10 limitations -- right to hearing. (1) A person who ~~meets the~~  
11 ~~requirements of 16-4-401(2) for a license~~ HAS BEEN GRANTED A  
12 LICENSE UNDER 16-4-401(2) to sell alcoholic beverages for  
13 consumption on the premises may be granted a license for the  
14 placement of video draw poker machines in a HIS licensed  
15 establishment.

16 (2) A licensee may not HAVE ON THE PREMISES OR make  
17 available for play on the premises of his licensed  
18 establishment more than five machines.

19 (3) A person denied a state license has the right to a  
20 hearing before the department. The hearing must be conducted  
21 in accordance with the provisions of the Montana  
22 Administrative Procedure Act.

23 Section 9. Video draw poker machines -- possession --  
24 play -- restriction. No person may place a ~~video draw~~ poker  
25 machine AN ELECTRONIC VIDEO GAME MACHINE THAT SIMULATES OR

1 OFFERS A GAME OF POKER in his licensed establishment unless  
 2 he is licensed under [section 10]. Machines licensed under  
 3 [section 10] are legal, and it is legal to play such  
 4 machines, except that a person under the ~~legal-age-for~~  
 5 ~~consuming-or-possessing-alcoholic-beverages~~ AGE OF 18 YEARS  
 6 may not play a video draw poker machine. The provisions of  
 7 Title 23, chapter 5, part 3, do not apply to or prohibit  
 8 video draw poker machines or the playing of such machines.

9 Section 10. State license -- fee. (1) The department  
 10 of revenue, upon payment of the fee provided in subsection  
 11 (2) and in conformance with rules adopted under [section 7],  
 12 shall issue to the licensee a license for each video draw  
 13 poker machine.

14 (2) The department shall charge an annual license fee  
 15 of ~~\$2,000~~ \$1,500 for each machine ~~and, THE DEPARTMENT SHALL~~  
 16 ~~RETAIN 5% OF THE TOTAL LICENSE FEE COLLECTED IN FISCAL YEARS~~  
 17 ~~1986 AND 1987 AND SHALL RETAIN 3% THEREAFTER FOR PURPOSES OF~~  
 18 ~~ADMINISTERING [SECTIONS 1 THROUGH 5 AND 7 THROUGH 12 OF THIS~~  
 19 ~~ACT]. THE DEPARTMENT shall deposit 25% ONE-THIRD of the~~  
 20 ~~REMAINING fee in the state general fund~~ ~~EXCEPT THAT IT MAY~~  
 21 ~~RETAIN UP TO 8% OF THAT ONE-THIRD TO ADMINISTER [SECTIONS 1~~  
 22 ~~THROUGH 5 AND 7 THROUGH 12]~~ 7 and forward 75% TWO-THIRDS of  
 23 the REMAINING fee to the treasurer of the county or the  
 24 clerk, finance officer, or treasurer of the city or town in  
 25 which the licensed machine is located, for deposit to the

1 county or municipal treasury. Counties are not entitled to  
 2 proceeds from fees on licensed machines located in cities  
 3 and towns. The license expires on June 30 of each year, and  
 4 the fee is prorated. [THE TWO-THIRDS PORTION OF THE ANNUAL  
 5 FEE IS STATUTORILY APPROPRIATED TO THE DEPARTMENT AS  
 6 PROVIDED IN [SECTION 2 OF HOUSE BILL NO. 12] FOR DEPOSIT TO  
 7 THE COUNTY OR MUNICIPAL TREASURY.]

8 Section 11. Investigations and violations. (1) The  
 9 department shall make necessary investigations, suspend or  
 10 revoke state licenses for violations of [sections 1 through  
 11 5 and 7 through ~~12~~], and hold hearings on such matters. A  
 12 license may be suspended prior to a hearing upon a finding  
 13 of danger to public health and welfare but may not be  
 14 revoked until the hearing is completed.

15 (2) A violation of [sections 1 through 5 and 7 through  
 16 ~~12~~] or a rule promulgated under [section 7] is a criminal  
 17 offense, and a fine not to exceed \$10,000 for the first  
 18 violation and \$15,000 for a subsequent violation must be  
 19 imposed.

20 (3) If a video draw poker machine is operated in  
 21 violation of [sections 1 through 5 and 7 through ~~12~~], it  
 22 may be seized under 23-5-121 and the provisions of 23-5-122  
 23 apply.

24 (4) Employees of the department designated as  
 25 enforcement agents may investigate the background of license

1 applicants to the extent judged necessary by the department,  
2 but no person may be investigated prior to his submission of  
3 an application for a license.

4 (5) Findings of suspected illegal activity must be  
5 reported to the appropriate law enforcement agency.

6 (6) Any peace officer of this state may arrest a  
7 person for tampering with a video draw poker machine,  
8 attempting or conspiring to manipulate the outcome or the  
9 payoff of a video draw poker machine, or manipulating the  
10 outcome or payoff of a video draw poker machine by physical  
11 tampering or other interference with the proper functioning  
12 of the machine.

13 SECTION 12. USED VIDEO DRAW POKER MACHINES. A USED  
14 VIDEO DRAW POKER MACHINE MAY BE LICENSED UNDER [SECTION 10]  
15 WITHOUT MEETING THE REQUIREMENTS OF [SUBSECTIONS (4)(J),  
16 (4)(K), AND (4)(O) OF SECTION 3] IF THE APPLICANT FOR  
17 LICENSURE CAN ESTABLISH TO THE SATISFACTION OF THE  
18 DEPARTMENT THAT, ON THE DATE OF APPLICATION, HE OWNS OR  
19 POSSESSES A MACHINE WHICH WAS OWNED OR OPERATED IN THE STATE  
20 PRIOR TO FEBRUARY 3, 1984. A LICENSE ISSUED UNDER THIS  
21 SECTION EXPIRES 1 YEAR FROM THE DATE OF ISSUANCE OR ON JULY  
22 1, 1987, WHICHEVER OCCURS FIRST.

23 SECTION 13. APPROPRIATION. THE 5% PORTION OF THE  
24 LICENSE FEES RETAINED BY THE DEPARTMENT IN FISCAL YEARS 1986  
25 AND 1987, AS PROVIDED IN [SECTION 10 OF THIS ACT] IS

1 APPROPRIATED TO THE DEPARTMENT FOR THE BIENNIUM ENDING JUNE  
2 30, 1987, FOR PURPOSES OF ADMINISTERING THIS ACT.

3 SECTION 14. COORDINATION INSTRUCTION. THE BRACKETED  
4 LANGUAGE IN SECTION 10 OF THIS ACT IS EFFECTIVE ONLY IF  
5 HOUSE BILL NO. 12 OF THE 49TH LEGISLATURE IS PASSED AND  
6 APPROVED. IN ADDITION, IF HOUSE BILL NO. 12 IS PASSED AND  
7 APPROVED, A REFERENCE TO SECTION 10 OF THIS ACT IS INCLUDED  
8 IN THE SUBSECTION OF HOUSE BILL NO. 12 LISTING ALL SECTIONS  
9 CONTAINING STATUTORY APPROPRIATIONS.

10 Section 15. Effective dates -- termination date. (1)  
11 This section and subsection (2) of section 7 are effective  
12 on passage and approval for the purpose of adoption of rules  
13 that are applicable on July 1, 1985.

14 (2) The remainder of this act is effective July 1,  
15 1985.

16 (3) SECTION 12 TERMINATES JULY 1, 1987.

-End-