

HOUSE BILL NO. 610

2/01 Introduced
2/01 Referred to Business & Labor
Died in Committee

1 HOUSE BILL NO. 610 *Lynch*
 2 INTRODUCED BY *Lawrence Menckow Zwick*
 3 *Carlton Keenan Dan Brown KIRUEGER Stoney*

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

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

13 NEW SECTION. Section 1. Countywide regulation of
 14 gambling -- self-governing local governments. (1) The
 15 governing body of a self-governing county or a
 16 self-governing city-county consolidated local government
 17 may, by ordinance approved by the electorate in a referendum
 18 conducted pursuant to 7-5-131 through 7-5-137, regulate
 19 gambling within its jurisdiction.

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

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

25 (4) (a) A form of gambling that is prohibited by a

1 self-governing county or self-governing city-county
 2 consolidated local government is prohibited gambling under
 3 the provisions of 23-5-102, notwithstanding that the form of
 4 gambling may be authorized under other provisions of state
 5 law.

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

15 (5) A local government regulating gambling under this
 16 section may define gambling offenses, including cheating and
 17 prohibited forms of gambling, and may fix as a penalty for
 18 violation of such gambling offenses a fine not to exceed
 19 \$5,000 or imprisonment not to exceed 6 months or both such
 20 fine and imprisonment.

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

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



-2- INTRODUCED BILL
 HB 610

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

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

9 (2) the power to regulate private activity beyond its
10 geographic limits;

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

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

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

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

21 "23-5-102. Gambling prohibited -- penalty. Except as
22 provided in [section 1] or otherwise provided by law, a
23 person who engages in gambling in any form with cards, dice,
24 or other implements or devices of any kind wherein anything
25 valuable may be wagered upon the outcome or who keeps any

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

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

8 "23-5-142. Ordinances concerning gambling. No Except
9 as provided in [section 1], no ordinance regarding gambling
10 or gambling houses may be passed by any city, or town,
11 county, or other political subdivision of the state except
12 in compliance with parts 3, 4, and 5 of this chapter."

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

-End-