

SENATE BILL NO. 391

2/11 Introduced
2/12 Referred to Business & Industry
2/13 Fiscal Note Requested
2/19 Fiscal Note Received
2/21 Hearing
3/18 Committee Report-Bill Pass As Amended
3/20 Statement of Intent Attached
3/20 Rereferred to Business & Industry
Died in Committee

1 *Senate* BILL NO. *391*
 2 INTRODUCED BY *Senators: Andy Pistorio, Herman*
 3 *O'Connell, Kellygan, Harro, Richard, Thomas, Tveit*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR LICENSING
 5 AND PLACEMENT OF VIDEO DRAW POKER MACHINES; PROVIDING POWERS
 6 AND DUTIES FOR THE DEPARTMENT OF REVENUE; PROVIDING FOR
 7 DISTRIBUTION OF REVENUES; PROVIDING A PENALTY PROVISION; AND
 8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

14 Section 2. Definitions. As used in [sections 1 through
15 12], the following definitions apply:

- 16 (1) "Department" means the department of revenue.
- 17 (2) "Distributor" means an individual, partnership, or
18 corporation that buys, sells, or leases video draw poker
19 machines, except a machine owner.
- 20 (3) "Licensed establishment" means a restaurant, bar,
21 tavern, motel, hotel, or club that has a license for the
22 sale of alcoholic beverages for on-premises consumption.
- 23 (4) "Machine owner" means an individual, partnership,
24 or corporation that owns, services, and maintains video draw
25 poker machines for placing in licensed establishments.

1 (5) "Manufacturer" means an individual, partnership,
2 or corporation that manufactures or assembles video draw
3 poker machines in the state of Montana.

4 (6) "Net machine revenue" means gross machine revenue
5 less the value of prizes paid as shown on the machine's
6 meters.

7 (7) "Video draw poker machine" means a machine that,
8 upon insertion of a coin, is available to play or simulate
9 the play of the game of draw poker, as provided in [sections
10 1 through 12], utilizing a video display and microprocessors
11 in which, by the skill of the player or by chance, or both,
12 the player may receive free games or credits that can be
13 redeemed for cash. The term does not include a machine that
14 directly dispenses coins, cash, tokens, or anything else of
15 value, except the ticket voucher required by [section 3].

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

- 18 (a) be manufactured or assembled in the state of
19 Montana by a person licensed under [section 10];
- 20 (b) be connected with a system consisting of
21 player-operated terminals and control computers. The
22 terminals must be intelligent devices operated by the
23 players in the manner specified in [sections 1 through 12].
24 The control computers must interrogate the individual
25 machines and generate the performance and statistical



1 reports required by [sections 1 through 12];

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

5 (d) offer the game of draw poker and have the
6 following method of operation:

7 (i) the cards must be shuffled after each hand of
8 poker is dealt;

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

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

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

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

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

25 (vii) the machine must have doors to two locking areas,

1 one area containing the logic board and software for the
2 game draw poker and the other housing the cash compartment
3 and mechanical meters. These areas must be locking and
4 separated. Access to one from the other must not be allowed
5 at any time.

6 (viii) the machine must have two mechanisms that accept
7 quarters;

8 (ix) the machine must use a 13-inch color display with
9 images of cards that are 2 1/2 x 1 3/4 inches and closely
10 resemble standard poker playing cards;

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

14 (A) the name of the licensed establishment;

15 (B) the name of the city, town, or county in which the
16 licensed establishment is located;

17 (C) the value of the prize in numbers;

18 (D) the value of the prize in words;

19 (E) the time of day, in hours and minutes in a 24-hour
20 format;

21 (F) the date;

22 (G) the machine license number or serial number up to
23 eight digits;

24 (H) the sequential number of the ticket voucher; and

25 (I) an encrypted validation number from which the

1 validity of the prize can be determined;

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

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

7 (A) coins accepted by each coin acceptor;

8 (B) credits played by player;

9 (C) credits won by player; and

10 (D) credits printed out by the ticket voucher printer;

11 (xiii) the machine must contain electronic metering
12 using meters that record the following and display them on
13 the video screen:

14 (A) total coins in mechanism 1, total coins in
15 mechanism 2, and total coins in mechanisms 1 and 2 combined;

16 (B) total credits, total credits played, and total
17 credits won;

18 (C) total hands of poker played and total hands of
19 poker won;

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

23 (E) total errors from the logic board random access
24 memory; and

25 (F) total examination of electronic meters;

1 (xiv) the machine must have a memory area in which the
2 electronically metered data is stored that is accessible
3 remotely by the computer system;

4 (xv) the data from the electronic meters must be
5 transferred to the control computer system on a daily basis
6 and on a request basis;

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

11 (xvii) the machine must have the following
12 communication specifications:

13 (A) be capable of communication with the control
14 computer over standard service telephone lines;

15 (B) be capable of utilizing existing telephone lines
16 at the location of the machine; and

17 (C) when communications are in progress, all other
18 telephones and telephone devices on the same telephone line
19 must be disabled by the machine;

20 (xviii) the machine must issue, by activation of an
21 external switch, an accounting ticket containing a
22 performance synopsis of the machine. The ticket must
23 contain:

24 (A) the name of the licensed establishment;

25 (B) the name of the city, town, or county in which the

1 licensed establishment is located;

2 (C) the license number of the machine;

3 (D) the time of day, in hours and minutes in a 24-hour
4 format;

5 (E) the date; and

6 (F) the electronic meter readings required by
7 subsection (3)(1);

8 (xix) control computers used to interrogate the
9 machines must be arranged in a satellite configuration, with
10 a city, town, or county computer terminal monitoring the
11 operation of all games in the city, town, or county and a
12 master computer located at the central office of the
13 department of revenue that monitors the operation of the
14 entire system.

15 (2) The department must bear the cost and maintenance
16 of the master central computer located in its offices. The
17 machine owners must bear the cost of and maintain the
18 computers in the towns, cities, and counties, on a pro rata
19 per-machine basis whenever necessary. The machine owners
20 must install, maintain, and bear the cost of the
21 communication system, on a pro rata per-machine basis
22 whenever necessary. A town, city, or county governing body
23 must provide a place in its offices in which a town, city,
24 or county computer will be kept.

25 Section 4. Winning percentage -- verification of

1 revenue due and winning percentages. The department shall
2 prescribe the winning percentage, which must be at least
3 80%, and necessary video draw poker machine accounting
4 information. Each machine must have dual electronic
5 accounting devices to verify revenue due and winning
6 percentages. At least one device must be connected by
7 telephone line to the control computers at the owner's
8 expense, and access to the stored data must be readily
9 available to the department and the city, town, or county in
10 which the machine is located.

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

15 Section 6. Distribution of proceeds. (1) The net
16 machine revenue derived from a video draw poker machine must
17 be distributed as follows:

18 (a) 40% to the machine owner;

19 (b) 40% to the licensed establishment in which the
20 machine is located;

21 (c) 20% to the department to be disbursed as follows:

22 (i) 25% of the 20% to the state general fund; and

23 (ii) 75% of the 20% to the general fund of the city or
24 town in which the machine is located or of the county if the
25 machine is not located in a city or town.

1 (2) Net revenues must be collected by the machine
2 owner. The amount referred to in [section 6(1)(c)] must be
3 sent each month to the department on a date determined by
4 the department. Simple interest at 18% a year, calculated
5 daily, must be paid to the department on any balance
6 outstanding after the remittal date.

7 (3) Each month, the machine owner must give the
8 department a report containing the:

- 9 (a) serial number of each video draw poker machine;
10 (b) name and address of the establishment where each
11 machine is located; and
12 (c) computer printouts of the net revenue of each
13 machine, taken directly from the machine's electronic
14 accounting devices, if requested by the department, by the
15 city or town in which the machine is located, or the county
16 if a machine is not located in a city or town.

17 Section 7. Video draw poker fund. There is an account
18 in the enterprise fund type, as defined in 17-2-102, to be
19 known as the video draw poker account. The license fee
20 revenue provided by [sections 1 through 12] must be
21 deposited in the account to be used as follows:

- 22 (1) Up to 15% may be used by the department to
23 administer [sections 1 through 12]; and
24 (2) the remainder must be paid quarterly from the
25 enterprise fund type account into the state general fund.

1 Section 8. Powers and duties of department --
2 licenses. (1) The department shall adopt rules implementing
3 [sections 1 through 12] and:

- 4 (a) provide licensing procedures;
5 (b) prescribe necessary application and reporting
6 forms; and
7 (c) grant or deny license applications.
8 (2) The department may not deny or place a condition
9 on a license except for reasonable cause.

10 Section 9. License qualifications. (1) A person may
11 not be granted a license unless he is of good character,
12 honest, has adequate financing from suitable sources, is a
13 citizen of the United States, and has resided in this state
14 for at least 1 year prior to the application.

15 (2) No license may be granted to a person who has been
16 convicted of being or is the keeper of a house of
17 prostitution or has had a license issued under [sections 1
18 through 12] revoked for cause.

19 (3) A license may not be renewed if the licensee no
20 longer meets the requirements for granting a license.

21 (4) If a license applicant is a partnership, each
22 partner, including a limited partner, must qualify under
23 subsections (1) through (3).

24 (5) If a license applicant is a corporation:

- 25 (a) it must have been a registered Montana corporation

1 for at least 1 year prior to the application;

2 (b) at least one-half of its directors must have
3 resided in Montana for at least 1 year;

4 (c) each officer must qualify under subsections (1)
5 through (3); and

6 (d) each stockholder must be a natural person and, if
7 he owns 5% or more of the stock of the corporation, he must
8 qualify under subsections (1) through (3).

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

13 Section 10. Legality of machines -- types of licenses.

14 (1) No person may manufacture, distribute, own, operate, or
15 keep a video draw poker machine unless he is licensed under
16 this section. Machines licensed under this section are legal
17 and it is legal to play such machines. The provisions of
18 Title 23, chapter 5, part 3, do not apply to or prohibit
19 video draw poker machines or the playing of such machines.

20 (2) A manufacturer's license may be issued to a person
21 that manufactures or assembles video draw poker machines for
22 use in this state. The annual fee is \$5,000, and a \$5,000
23 cash bond must be posted. A plant manufacturing or
24 assembling machines must be registered with the department
25 and be open at any time to inspection by the department and

1 law enforcement agencies.

2 (3) A distributor's license may be issued to a person
3 that buys, sells, or leases video draw poker machines in
4 this state. The annual fee is \$7,500, and a \$5,000 cash bond
5 must be posted.

6 (4) A machine owner's license may be issued to a
7 person that owns, services, and maintains video draw poker
8 machines for placement in licensed establishments. The
9 annual fee is \$10,000 for the first 1 through 25 video draw
10 poker machines placed, and a \$10,000 cash bond must be
11 posted. For each additional video draw poker machine, the
12 annual fee is \$400. No video draw poker machine may be
13 licensed in the state of Montana that has not been
14 manufactured or assembled in the state of Montana.

15 (5) A licensed establishment license may be issued to
16 a person who owns a license for the sale of alcoholic
17 beverages for on-premises consumption. The annual fee is
18 \$400 per year per machine. The fee for a machine may be
19 prorated on a quarterly basis. The holder of a license under
20 this subsection does not have to meet the residency
21 requirement. No licensed establishment may have more than
22 five machines.

23 (6) Each licensed video draw poker machine must have
24 the license prominently displayed on it.

25 (7) No video draw poker machine may be placed in a

1 licensed establishment unless the owner, lessee, or other
 2 person operating the licensed establishment has entered into
 3 a contract with a machine owner for the placement of the
 4 machines for a minimum term of 60 months.

5 (8) No person may, directly or indirectly, hold or own
 6 an interest in more than one type of license.

7 (9) A license may not be sold, assigned, or otherwise
 8 transferred.

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

16 (2) A violation of [sections 1 through 12] or a rule
 17 promulgated under [section 8] is a criminal offense, and a
 18 fine not to exceed \$5,000 for the first violation and
 19 \$15,000 for a subsequent violation must be imposed.

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

23 (4) Employees of the department designated as
 24 enforcement agents may investigate the background of license
 25 applicants to the extent judged necessary by the department,

1 but no person may be investigated prior to his submission of
 2 an application for a license.

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

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

12 Section 12. Preemption of local taxes. Video draw
 13 poker machines are exempt from taxes or fees levied by any
 14 government entity except as provided in [sections 1 through
 15 12].

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

22 Section 14. Effective date. This act is effective on
 23 passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. FNN 431-85

FISCAL NOTE

Form BD-15

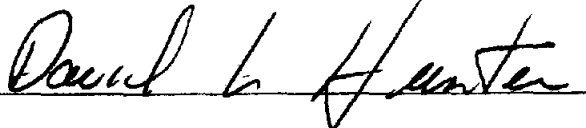
In compliance with a written request received February 15, 19 85, there is hereby submitted a Fiscal Note for Senate Bill 391 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for licensing and placement of video draw poker machines; providing powers and duties for the Department of Revenue; providing for distribution of revenues; providing a penalty provision and providing an immediate effective date.

ASSUMPTIONS:

1. Data for revenue estimates were based on input from Nebraska, Illinois and 75 "Draw 80" machines located within Gallatin County. These machines were operated in the same manner as envisioned by this legislation. If 5,000 were distributed statewide based on population, there will be approximately 250 machines located in Gallatin County. It is assumed that a higher number of machines in a given area will reduce the average net revenue per machine from \$342.60 per week to \$200 per week.
2. There are currently 1,938 valid licenses for the sale of on-premises consumption of alcoholic beverages. If all establishments in the state were to acquire the maximum number of machines allowed by the law, there would be 9,690 machines in the state. The total number of machines anticipated for operation in Montana during FY 87 is assumed to be 5,000.
3. The license fees paid by the manufacturer, distributor, machine owner and the licensed establishment are annual fees paid in a lump sum each year.
4. Revenue estimates for the first year of operation have been reduced as follows:
 - a) By 10% to adjust for less business now versus 1981-82;
 - b) By 7/12 of a full years operation to adjust for the phasing in of machines during the first year of legal operation;
 - c) By proration of establishment licenses for the same reason as (b) above.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 18, 1985

Amount of Play

Estimation of revenues from this proposal were based on input from three different sources. City administrators in South Sioux City and Bellevue, Nebraska were contacted in addition to the lottery commission in the state of Illinois. Nebraska has experienced weekly net income anywhere from \$1,600 to \$2,100 per machine. This is believed to be an upper constraint on revenues because these cities are close to large urban centers which do not allow machines.

Illinois has a test program that is experiencing weekly net revenue anywhere from \$120 to \$320 per terminal. Their machines are designed to play arcade type games instead of the traditional poker games. Illinois has purposely tried to place terminals in areas that are not conducive to video games.

Statistics from 75 "Draw 80" machines located in Gallatin County for about 26 weeks were the third source of information for this fiscal note. Net revenue from each of these machines average \$342.60 per week.

Basis for Calculation of Fiscal Impact:

	<u>Per Machine</u>	<u>Annual Gross for 5,000 machines</u>
Average play:	\$ 200/week	\$ 52,000,000
Distribution of the Net Income (20% of machine gross):		
To State	5% \$ 10/week	\$ 2,600,000
To Local Governments	15% \$ 30/week	\$ 7,800,000
To Licensee	40% \$ 80/week	\$ 20,800,000
To Machine Owner	40% \$ 80/week	\$ 20,800,000

FISCAL IMPACT DETAIL:

	<u>FY1986</u> <u>Under</u> <u>Proposed Law</u>	<u>FY1987</u> <u>Under</u> <u>Proposed Law</u>
Machine Licensing	3,264,700	4,215,000
Machine Revenue @ 20%	5,460,000	10,400,000
TOTAL REVENUE	<u>8,724,700</u>	<u>14,615,000</u>
 Effect on Expenditures by Category:		
Personal Services	496,307	421,276
Operating Expenses	231,535	117,878
Capital Outlay	145,700	17,000
TOTAL EXPENDITURES	<u>873,542</u>	<u>556,154</u>
 Net Revenue Summary:		
Licensing Rev.-Gen. Fund *	3,264,700	4,215,000
Machine Rev. -Gen. Fund	1,365,000	2,600,000
Total Operations - Gen.Fund *	<u>(873,542)</u>	<u>(556,154)</u>
TOTAL GENERAL FUND	3,756,158	6,258,846
 Machine Revenue Counties & Cities	 4,095,000	 7,800,000
TOTAL NET REVENUE	<u>7,851,158</u>	<u>14,058,846</u>

* Section 7 of the bill requires that all operational costs are to be funded from licensing revenues. Excess licensing revenues are to be transferred to the general fund on a quarterly basis.

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Individual Income Taxes:

The revenue estimates do not address the additional revenues that will be generated from income taxes on machine owners and licensed establishments. Since there should be minimal costs in operating these machines in licensed establishments, all of the earnings allowed to licensed establishments should become taxable income. If you assume income will be reported as personal income, individual income taxes on licensee net machine income should be approximately \$1.0 million per year. Because the state will have a computer record of the income by licensee, it will be possible to assure proper reporting.

Additional income tax revenues will also be generated from manufacturers, distributors and machine owners. Since anticipated operating costs are not readily available, an estimate cannot be provided. However, it is believed that additional income tax revenues would be significant.

APPROVED BY COMM. ON BUSINESS & INDUSTRY

SENATE BILL NO. 391

INTRODUCED BY BOYLAN, ADDY, PISTORIA, NEUMAN, JACK MOORE, GOULD, HALLIGAN, HARP, MANNING, TVEIT, KOEHNKE, C. SMITH, SPAETH, KENNERLY, GALT, O'CONNELL

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR LICENSING AND PLACEMENT OF VIDEO DRAW POKER MACHINES; PROVIDING POWERS AND DUTIES FOR THE DEPARTMENT OF REVENUE; PROVIDING FOR DISTRIBUTION OF REVENUES; PROVIDING A PENALTY PROVISION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

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

(2) "Distributor" means an individual, partnership, or corporation that buys, sells, or leases video draw poker machines, ~~except a machine owner~~ AND PROVIDES A FACILITY FOR THE INSPECTION OF VIDEO DRAW POKER MACHINES TO ENSURE CONFORMANCE WITH [SECTIONS 1 THROUGH 12].

(3) "Licensed establishment" means a restaurant, bar,

tavern, motel, hotel, or club that has a license for the sale of alcoholic beverages for on-premises consumption.

(4) "Machine owner" means an individual, partnership, or corporation that owns, services, and maintains video draw poker machines for placing in licensed establishments.

~~(5) "Manufacturer" means an individual, partnership, or corporation that manufactures or assembles video draw poker machines in the state of Montana.~~

(6) (5) "Net machine revenue" means gross machine revenue less the value of prizes paid as shown on the machine's meters.

(7) (6) "Video draw poker machine" means a machine that, upon insertion of a coin CASH, is available to play or simulate the play of the game of draw poker, as provided in [sections 1 through 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, except the ticket voucher required by [section 3].

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

(a) be ~~manufactured or assembled~~ INSPECTED in the state of Montana by ~~a person licensed under [section 10]~~ FOR



1 CERTIFICATION AND LICENSURE BY THE DEPARTMENT;

2 (b) be connected with a system consisting of
3 player-operated terminals and control computers. The
4 terminals must be intelligent devices operated by the
5 players in the manner specified in [sections 1 through 12].
6 The control computers must interrogate the individual
7 machines and generate the performance and statistical
8 reports required by [sections 1 through 12];

9 (c) not have any switches, jumpers, wire posts, or any
10 other means of manipulation that could affect the operation
11 or ~~out-come~~ OUTCOME of a game; and

12 (d) offer the game of draw poker and have the
13 following method of operation:

14 (i) the cards must be shuffled after each hand of
15 poker is dealt;

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

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

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

25 (v) after the first five cards of a hand have been

1 dealt, the player must be allowed to raise his wager up to
2 the amount of his initial ante, not to exceed eight
3 quarters;

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

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

13 (viii) the machine must have two mechanisms that accept
14 quarters;

15 (ix) the machine must use a ~~13-inch~~ color display with
16 images of cards that ~~are 2-1/2-x-1-3/4--inches--and~~ closely
17 resemble standard poker playing cards;

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

21 (A) the name of the licensed establishment;

22 (B) the name of the city, town, or county in which the
23 licensed establishment is located;

24 (C) the value of the prize in numbers;

25 (D) the value of the prize in words;

1 (E) the time of day, in hours and minutes in a 24-hour
 2 format;
 3 (F) the date;
 4 (G) the machine license number or serial number up to
 5 eight digits;
 6 (H) the sequential number of the ticket voucher; and
 7 (I) an encrypted validation number from which the
 8 validity of the prize can be determined;
 9 (xi) an exact copy of each printed ticket voucher must
 10 be printed and retained within the machine;
 11 (xii) the machine must have nonresettable mechanical
 12 meters housed in the cash compartment that keep a permanent
 13 record of:
 14 (A) coins accepted by each coin acceptor;
 15 (B) credits played by player;
 16 (C) credits won by player; and
 17 (D) credits printed out by the ticket voucher printer;
 18 (xiii) the machine must contain electronic metering
 19 using meters that record the following and display them on
 20 the video screen:
 21 (A) total coins in mechanism 1, total coins in
 22 mechanism 2, and total coins in mechanisms 1 and 2 combined;
 23 (B) total credits, total credits played, and total
 24 credits won;
 25 (C) total hands of poker played and total hands of

1 poker won;
 2 (D) total winning hands, consisting of a pair, two
 3 pair, three of a kind, a straight, a flush, a full house,
 4 four of a kind, a straight flush, or five of a kind;
 5 (E) total errors from the logic board random access
 6 memory; and
 7 (F) total examination of electronic meters;
 8 (xiv) the machine must have a memory area in which the
 9 electronically metered data is stored that is accessible
 10 remotely by the computer system;
 11 (xv) the data from the electronic meters must be
 12 transferred to the control computer system on a daily basis
 13 and on a request basis;
 14 (xvi) the machine may not have any functions or
 15 parameters adjustable by or through any separate video
 16 display or input codes, except for the adjustment of
 17 features that are wholly cosmetic;
 18 (xvii) the machine must have the following
 19 communication specifications:
 20 (A) be capable of communication with the control
 21 computer over standard service telephone lines;
 22 (B) be capable of utilizing existing telephone lines
 23 at the location of the machine; and
 24 (C) when communications are in progress, all other
 25 telephones and telephone devices on the same telephone line

1 must be disabled by the machine;

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

6 (A) the name of the licensed establishment;

7 (B) the name of the city, town, or county in which the
8 licensed establishment is located;

9 (C) the license number of the machine;

10 (D) the time of day, in hours and minutes in a 24-hour
11 format;

12 (E) the date; and

13 (F) the electronic meter readings required by
14 subsection (3)(1);

15 (xix) control computers used to interrogate the
16 machines must be arranged in a satellite configuration, with
17 a city, town, or county computer terminal monitoring the
18 operation of all games in the city, town, or county and a
19 master computer located at the central office of the
20 department of revenue that monitors the operation of the
21 entire system.

22 (2) The department must bear the cost and maintenance
23 of the master central computer located in its offices. The
24 machine owners must bear the cost of and maintain the
25 computers in the towns, cities, and counties, on a pro rata

1 per-machine basis whenever necessary. The machine owners
2 must install, maintain, and bear the cost of the
3 communication system, on a pro rata per-machine basis
4 whenever necessary. A town, city, or county governing body
5 must provide a place in its offices in which a town, city,
6 or county computer will be kept.

7 Section 4. Winning percentage -- verification of
8 revenue due and winning percentages. The department shall
9 prescribe the winning percentage, which must be at least
10 80%, and necessary video draw poker machine accounting
11 information. Each machine must have dual electronic
12 accounting devices to verify revenue due and winning
13 percentages. At least one device must be connected by
14 telephone line to the control computers at the owner's
15 expense, and access to the stored data must be readily
16 available to the department and the city, town, or county in
17 which the machine is located.

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

22 Section 6. Distribution of proceeds. (1) The net
23 machine revenue derived from a video draw poker machine must
24 be distributed as follows:

25 (a) ~~40% to the machine owner;~~ 80% TO THE MACHINE OWNER

1 IF THE SAME AS THE OWNER OF THE LICENSED ESTABLISHMENT; OR
 2 ~~(b) 40% to the licensed establishment in which the~~
 3 ~~machine is located;~~

4 (B) IF THE MACHINE IS PLACED IN A LICENSED
 5 ESTABLISHMENT UNDER A LEASE AGREEMENT, 80% TO THE MACHINE
 6 OWNER AND THE LICENSED ESTABLISHMENT TO BE DIVIDED BY
 7 AGREEMENT BETWEEN THEM;

8 (c) 20% to the department to be disbursed as follows:

9 (i) 25% of the 20% to the state general fund; and

10 (ii) 75% of the 20% to the general fund of the city or
 11 town in which the machine is located or of the county if the
 12 machine is not located in a city or town.

13 (2) Net revenues must be collected by the machine
 14 owner. The amount referred to in [section 6(1)(c)] must be
 15 sent each month to the department on a date determined by
 16 the department. Simple interest at 18% a year, calculated
 17 daily, must be paid to the department on any balance
 18 outstanding after the remittal date. THE DEPARTMENT MAY USE
 19 ANY OF THE POWERS GRANTED IN TITLE 15 FOR THE COLLECTION OF
 20 DELINQUENT TAXES TO COLLECT AMOUNTS THAT REMAIN UNPAID AFTER
 21 THE DUE DATE PROVIDED IN THIS SUBSECTION.

22 (3) Each month, the machine owner must give the
 23 department a report containing the:

24 (a) serial number of each video draw poker machine;

25 (b) name and address of the establishment where each

1 machine is located; and

2 (c) computer printouts of the net revenue of each
 3 machine, taken directly from the machine's electronic
 4 accounting devices, if requested by the department, by the
 5 city or town in which the machine is located, or the county
 6 if a machine is not located in a city or town.

7 Section 7. Video draw poker fund. There is an account
 8 in the enterprise fund type, as defined in 17-2-102, to be
 9 known as the video draw poker account. The license fee
 10 revenue provided by [sections 1 through 12] must be
 11 deposited in the account to be used as follows:

12 (1) ~~Up to 15% may be used by the department to~~
 13 ~~administer [sections 1 through 12]; and~~ DURING THE FIRST
 14 FISCAL YEAR OF OPERATION UNDER [THIS ACT], UP TO 30% MAY BE
 15 USED BY THE DEPARTMENT TO ADMINISTER [SECTIONS 1 THROUGH
 16 12]. THEREAFTER, UP TO 15% PER FISCAL YEAR MAY BE USED BY
 17 THE DEPARTMENT TO ADMINISTER [SECTIONS 1 THROUGH 12].

18 (2) the remainder must be paid quarterly from the
 19 enterprise fund type account into the state general fund.

20 Section 8. Powers and duties of department --
 21 licenses. (1) THE DEPARTMENT SHALL ADMINISTER AND CONTROL
 22 THE PROVISIONS OF [SECTIONS 1 THROUGH 12].

23 ~~(1)~~ (2) The department shall adopt rules implementing
 24 [sections 1 through 12] and:

25 (a) provide licensing procedures;

1 (b) prescribe necessary application and reporting
2 forms; and

3 (c) grant or deny license applications.

4 ~~(2)~~(3) The department may not deny or place a
5 condition on a license except for reasonable cause.

6 (4) THE DEPARTMENT IS A CRIMINAL JUSTICE AGENCY, AND
7 DESIGNATED EMPLOYEES ARE GRANTED PEACE OFFICER STATUS WITH
8 POWERS OF SEARCH, SEIZURE, AND ARREST TO REGULATE AND
9 CONTROL THOSE PERSONS LICENSED UNDER [SECTIONS 1 THROUGH
10 12].

11 Section 9. License qualifications. (1) A person may
12 not be granted a license unless he is of good character,
13 honest, has adequate financing from suitable sources, is a
14 citizen of the United States, and has resided in this state
15 for at least 1 year prior to the application.

16 (2) No license may be granted to a person who has been
17 convicted of being or is the keeper of a house of
18 prostitution or has had a license issued under [sections 1
19 through 12] revoked for cause.

20 (3) A license may not be renewed if the licensee no
21 longer meets the requirements for granting a license.

22 (4) If a license applicant is a partnership, each
23 partner, including a limited partner, must qualify under
24 subsections (1) through (3).

25 (5) If a license applicant is a corporation:

1 (a) it must have been a registered Montana corporation
2 for at least 1 year prior to the application;

3 (b) at least one-half of its directors must have
4 resided in Montana for at least 1 year;

5 (c) each officer must qualify under subsections (1)
6 through (3); and

7 (d) each stockholder must be a natural person and, if
8 he owns 5% or more of the stock of the corporation, he must
9 qualify under subsections (1) through (3).

10 (6) A person denied a 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 10. Legality of machines -- types of licenses.

15 (1) No person may manufacture, distribute, own, operate, or
16 keep a video draw poker machine unless he is licensed under
17 this section. Machines licensed under this section are legal
18 and it is legal to play such machines. The provisions of
19 Title 23, chapter 5, part 3, do not apply to or prohibit
20 video draw poker machines or the playing of such machines.

21 ~~(2) A manufacturer's license may be issued to a person~~
22 ~~that manufactures or assembles video draw poker machines for~~
23 ~~use in this state. The annual fee is \$5,000, and a \$5,000~~
24 ~~cash bond must be posted. A plant manufacturing or~~
25 ~~assembling machines must be registered with the department~~

1 ~~and--be-open-at-any-time-to-inspection-by-the-department-and~~
2 ~~law-enforcement-agencies.~~

3 ~~{3}{2}~~ A distributor's license may be issued to a
4 person that buys, sells, or leases video draw poker machines
5 in this state. A DISTRIBUTOR SHALL MAINTAIN A FACILITY FOR
6 THE INSPECTION OF VIDEO DRAW POKER MACHINES TO ENSURE
7 CONFORMANCE WITH [SECTIONS 1 THROUGH 12], AND THE FACILITY
8 MUST BE REGISTERED WITH THE DEPARTMENT AND BE OPEN AT ANY
9 TIME TO THE DEPARTMENT AND LAW ENFORCEMENT AGENCIES. The
10 annual fee is ~~\$7,500~~ \$12,500, and a ~~\$5,000~~ \$10,000 cash bond
11 must be posted.

12 (4) A machine owner's license may be issued to a
13 person that owns, services, and maintains video draw poker
14 machines for placement in licensed establishments. The
15 annual fee is \$10,000 for the first 1 through 25 video draw
16 poker machines placed, and a \$10,000 cash bond must be
17 posted. For each additional video draw poker machine, the
18 annual fee is \$400. No video draw poker machine may be
19 licensed in the state of Montana that has not been
20 ~~manufactured-or-assembled~~ INSPECTED in the state of Montana.

21 (5) A licensed establishment license may be issued to
22 a person who owns a license for the sale of alcoholic
23 beverages for on-premises consumption. The annual fee is
24 \$400 per year per machine. The fee for a machine may be
25 prorated on a quarterly basis. The holder of a license under

1 this subsection does not have to meet the residency
2 requirement. No licensed establishment may have more than
3 five machines.

4 (6) Each licensed video draw poker machine must have
5 the license prominently displayed on it.

6 (7) ~~No~~ IF UNDER A LEASE AGREEMENT, NO video draw poker
7 machine may be placed in a licensed establishment unless the
8 owner, lessee, or other person operating the licensed
9 establishment has entered into a contract with a machine
10 owner for the placement of the machines for a minimum term
11 of ~~60~~ 30 months.

12 ~~{8}--No-person-may,--directly-or-indirectly,--hold-or-own~~
13 ~~an-interest-in-more-than-one-type-of-license.~~

14 ~~{9}{8}~~ A license may not be sold, assigned, or
15 otherwise transferred.

16 Section 11. Investigations and violations. (1) The
17 department shall make necessary investigations, suspend or
18 revoke licenses for violations of [sections 1 through 12],
19 and hold hearings on such matters. A license may be
20 suspended prior to a hearing upon a finding of danger to
21 public health and welfare, but may not be revoked until the
22 hearing is completed.

23 (2) A violation of [sections 1 through 12] or a rule
24 promulgated under [section 8] is a criminal offense, and a
25 fine not to exceed \$5,000 for the first violation and

1 \$15,000 for a subsequent violation must be imposed.

2 (3) If a video draw poker machine is operated in
3 violation of [sections 1 through 12] it may be seized under
4 23-5-121, and 23-5-122 applies.

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. Preemption of local taxes. Video draw
20 poker machines are exempt from taxes or fees levied by any
21 government entity except as provided in [sections 1 through
22 12].

23 Section 13. Severability. If a part of this act is
24 invalid, all valid parts that are severable from the invalid
25 part remain in effect. If a part of this act is invalid in

1 one or more of its applications, the part remains in effect
2 in all valid applications that are severable from the
3 invalid applications.

4 Section 14. Effective date. This act is effective on
5 passage and approval.

-End-