

HOUSE BILL NO. 66

INTRODUCED BY PAVLOVICH

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

JANUARY 5, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON BUSINESS & LABOR.

FEBRUARY 20, 1987                 COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 21, 1987                 PRINTING REPORT.

FEBRUARY 23, 1987                 SECOND READING, DO PASS AS AMENDED.

FEBRUARY 24, 1987                 ENGROSSING REPORT.

FEBRUARY 25, 1987                 THIRD READING, PASSED.  
AYES, 92; NOES, 3.

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 2, 1987                    INTRODUCED AND REFERRED TO COMMITTEE  
ON BUSINESS & INDUSTRY.

MARCH 17, 1987                   COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

MARCH 20, 1987                   SECOND READING, CONCURRED IN.

MARCH 23, 1987                   THIRD READING, CONCURRED IN.  
AYES, 47; NOES, 1.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 23, 1987                   RECEIVED FROM SENATE.

SENT TO ENROLLING.

1                    HOUSE    BILL NO.    66  
 2    INTRODUCED BY PAVLOVICH  
 3                    BY REQUEST OF THE DEPARTMENT OF REVENUE

4  
 5    A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LICENSES FOR  
 6    MANUFACTURERS AND DISTRIBUTORS OF VIDEO DRAW POKER MACHINES  
 7    AND ASSOCIATED EQUIPMENT; IMPOSING ANNUAL LICENSE FEES;  
 8    ESTABLISHING QUALIFICATIONS FOR LICENSURE; PROVIDING FOR  
 9    INVESTIGATION, BONDING, RIGHT TO HEARING, PENALTIES,  
 10    INSPECTIONS, AND JUDICIAL REVIEW; AMENDING SECTION 23-5-602,  
 11    MCA; AND PROVIDING EFFECTIVE DATES."

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

14            Section 1. Section 23-5-602, MCA, is amended to read:  
 15            "23-5-602. Definitions. As used in this part, the  
 16    following definitions apply:

17            (1) "Associated equipment" means all devices,  
 18            machines, or parts used in the manufacture or maintenance of  
 19            a video draw poker machine, including but not limited to  
 20            integrated circuit chips, printed wired assembly, printed  
 21            wired boards, printing mechanisms, video display monitors,  
 22            and metering devices.

23            (1)(2) "Department" means the department of revenue.

24            (3) "Distributor" means an individual, partnership,  
 25            corporation, or association that supplies or provides video

1    draw poker machines or associated equipment to another  
 2    person for sale, use, or distribution in this state and is  
 3    not a manufacturer.

4            (2)(4) "Licensed establishment" means an establishment  
 5            that is licensed to sell alcoholic beverages for consumption  
 6            on the premises.

7            (3)(5) "Licensee" means an individual, partnership, or  
 8            corporation, or association that has been issued a license  
 9            by the department for the placement and operation of video  
 10           draw poker machines in the licensed establishment of the  
 11           individual, partnership, or corporation, or association.

12           (6) "Manufacturer" means an individual, partnership,  
 13           corporation, or association that assembles, produces, or  
 14           makes video draw poker machines or associated equipment for  
 15           sale, use, or distribution in this state.

16           (7) "Security" means:  
 17           (a) a surety bond executed by a manufacturer or  
 18           distributor as principal with a corporate surety qualified  
 19           under the laws of Montana, which bond must be payable to the  
 20           state of Montana, conditioned upon the faithful performance  
 21           of all requirements of this part, including but not limited  
 22           to the payment of all license fees, application processing  
 23           fees, investigation fees, and penalties; or

24           (b) a deposit made with the department, under such  
 25           conditions as the department may prescribe, of certificates



1 of deposit or irrevocable letters of credit issued by a bank  
 2 and insured by the federal deposit insurance corporation.

3 ~~(4)~~(8) "Used video draw poker machine" means a video  
 4 draw poker machine, as that term is defined in this section,  
 5 which is owned or possessed by an applicant on the day he  
 6 applies for a license for the used machine and which was  
 7 owned or operated in the state prior to February 3, 1984.

8 ~~(5)~~(9) "Video draw poker machine" means an electronic  
 9 video game machine that, upon insertion of cash, is  
 10 available to play or simulate the play of the game of draw  
 11 poker, as provided in this part, utilizing a video display  
 12 and microprocessors in which, by the skill of the player or  
 13 by chance, or both, the player may receive free games or  
 14 credits that can be redeemed for cash. The term does not  
 15 include a machine that directly dispenses coins, cash,  
 16 tokens, or anything else of value."

17 NEW SECTION. Section 2. Manufacturer or distributor  
 18 of video draw poker machines -- license -- fees. (1) It is  
 19 unlawful for any person to manufacture, sell, or distribute  
 20 any video draw poker machine or associated equipment for use  
 21 or play in this state without having first been issued a  
 22 manufacturer's or distributor's license by the department.

23 (2) The department shall charge an annual license fee  
 24 of:

25 (a) \$1,500 for the issuance or renewal of a

1 manufacturer's license; and

2 (b) \$1,500 for the issuance or renewal of a  
 3 distributor's license.

4 (3) In addition to other license fees, the department  
 5 may charge the applicant a one-time manufacturer's or  
 6 distributor's license application processing fee. The  
 7 processing fee may not exceed the department's actual costs  
 8 for processing an application.

9 (4) All manufacturer's and distributor's licenses  
 10 expire on June 30 of each year, and the license fee may not  
 11 be prorated.

12 (5) The department shall retain the license and  
 13 processing fees collected for purposes of administering this  
 14 part, except 23-5-615.

15 NEW SECTION. Section 3. License qualifications --  
 16 security -- investigation -- right to hearing. (1) An  
 17 applicant for issuance or renewal of a manufacturer's or  
 18 distributor's license shall:

19 (a) apply to the department on forms prescribed by the  
 20 department;

21 (b) establish to the satisfaction of the department  
 22 that the applicant's past record and present status as a  
 23 manufacturer or distributor of video draw poker machines or  
 24 associated equipment and as a business person and citizen  
 25 demonstrate that the applicant is likely to conduct his

1 business in compliance with all laws.

2 (2) In the case of a corporate applicant:

3 (a) the corporation must be incorporated:

4 (i) in the state of Montana, although the corporation  
5 may be a wholly or partly owned subsidiary of a corporation  
6 which is incorporated in another state of the United States;  
7 or

8 (ii) in another state of the United States if the  
9 corporation is registered with the Montana secretary of  
10 state and authorized to do business in Montana;

11 (b) all corporate officers, directors, and  
12 shareholders must meet the requirements of subsection  
13 (1)(b); and

14 (c) if the corporation's stock is traded on a national  
15 stock exchange, all corporate officers and directors and  
16 each owner of 5% or more of the outstanding stock must meet  
17 the requirements of subsection (1)(b).

18 (3) In the case of any other business entity:

19 (a) if the applicant consists of more than one  
20 individual, each individual must meet the requirements of  
21 subsection (1)(b); or

22 (b) if the applicant consists of more than one  
23 corporation, each corporation must meet the requirements of  
24 subsection (2).

25 (4) No manufacturer's or distributor's license may be

1 issued by the department unless the applicant has filed  
2 security, as defined in 23-5-602, with the department to  
3 secure compliance with this part. The total amount of the  
4 security required of any applicant must be equivalent to the  
5 reasonable value of all machines the applicant has  
6 manufactured or distributed for use or play in Montana for  
7 all previous license years plus the department's estimate of  
8 the reasonable value of all machines the applicant will  
9 manufacture or distribute for use or play in Montana during  
10 the license year applied for. The amount of the security may  
11 not exceed \$5,000 per machine and may be adjusted only at  
12 the time of license renewal.

13 (5) Any surety for a bond provided by an applicant  
14 must be released and discharged from any and all liability  
15 to the state accruing on such bond after the expiration of  
16 30 days from the date the department receives a written  
17 request for release and discharge, but this provision does  
18 not operate to relieve, release, or discharge the surety  
19 from any liability already accrued or which accrues before  
20 the expiration of the 30-day period. A license must be  
21 revoked if the manufacturer or distributor does not provide  
22 a new surety or other security before the former surety is  
23 released.

24 (6) The department shall conduct an investigation to  
25 determine whether an applicant for a manufacturer's or

1 distributor's license qualifies under this part. The  
 2 department shall require the applicant to pay the  
 3 anticipated actual costs of the investigation in advance  
 4 and, after the completion of the investigation, shall refund  
 5 overpayments or charge and collect amounts sufficient to  
 6 reimburse the department for underpayments of actual costs.

7 (7) A person denied a manufacturer's or distributor's  
 8 license has the right to a hearing before the department.  
 9 The hearing must be conducted in accordance with the  
 10 provisions of the Montana Administrative Procedure Act.

11 NEW SECTION. Section 4. Determination of  
 12 unsuitability for licensure -- effect. (1) If the department  
 13 determines that a manufacturer or distributor is unsuitable  
 14 for issuance of a license or if a previously issued license  
 15 is revoked:

16 (a) the department may not approve any new video draw  
 17 poker machine or associated equipment manufactured or  
 18 distributed by the applicant;

19 (b) a manufacturer or distributor may not sell,  
 20 transfer, or offer for use or play in this state any new  
 21 video draw poker machine or associated equipment; and

22 (c) a manufacturer or distributor shall terminate any  
 23 association or agreement for the sale, lease, rental, or use  
 24 of a video draw poker machine or associated equipment.

25 (2) An agreement between a manufacturer or distributor

1 and a licensee is considered to include a provision for its  
 2 termination without liability on the part of the licensee  
 3 upon a determination by the department that the manufacturer  
 4 or distributor is unsuitable for licensure. Failure to  
 5 include such provisions for termination in an agreement is  
 6 not a defense in any action brought under the provisions of  
 7 this section to terminate the agreement.

8 (3) Failure of a licensee to terminate any association  
 9 or agreement with a manufacturer or distributor after  
 10 receiving notice of the department's determination of  
 11 unsuitability for licensure constitutes grounds for  
 12 revocation of a video draw poker machine license.

13 (4) If the department determines that a manufacturer  
 14 is unsuitable for issuance of a license or if a previously  
 15 issued license is revoked, the prior approval for all video  
 16 draw poker machines and associated equipment manufactured by  
 17 such manufacturer is automatically revoked effective 30 days  
 18 from the department's determination. Any use of such  
 19 machines or associated equipment constitutes operation of an  
 20 illegal gambling device. The manufacturer shall reimburse  
 21 all owners and licensees of such machines and associated  
 22 equipment for all economic losses incurred as a result of  
 23 revocation of prior approval for such machines and  
 24 associated equipment. The security required in this part may  
 25 be executed upon to satisfy the judgments entered on behalf

1 of claimants.

2 NEW SECTION. Section 5. Penalties -- hearing. (1) If  
3 the department finds reasonable cause to believe a person  
4 licensed under this part has violated any of the provisions  
5 of this part or the department's rules, the department may,  
6 in addition to the other penalties prescribed:

7 (a) suspend the license for a period of not more than  
8 180 days;

9 (b) impose a civil penalty not to exceed \$6,000;

10 (c) revoke the license;

11 (d) deny renewal of the license on expiration thereof;

12 or

13 (e) impose a combination of any two of the penalties  
14 set forth in subsections (1)(a) through (1)(d).

15 (2) A person licensed under this part and determined  
16 by the department to have violated the provisions of this  
17 part or the department's rules has the right to a hearing  
18 before the department. The hearing must be conducted in  
19 accordance with the provisions of the Montana Administrative  
20 Procedure Act.

21 NEW SECTION. Section 6. Examination and approval of  
22 video draw poker machines and associated equipment -- fee.

23 (1) The department shall examine and approve video draw  
24 poker machines and associated equipment which is  
25 manufactured, sold, or distributed for use in this state

1 before the video draw poker machine or associated equipment  
2 is placed into play or use.

3 (2) A video draw poker machine or associated equipment  
4 may not be examined or approved by the department until the  
5 manufacturer and distributor for the machine or associated  
6 equipment are licensed as required in [section 2].

7 (3) The department shall require the manufacturer,  
8 distributor, or licensee seeking the examination and  
9 approval of a video draw poker machine or associated  
10 equipment to pay the anticipated actual costs of the  
11 examination in advance and, after the completion of the  
12 examination, shall refund overpayments or charge and collect  
13 amounts sufficient to reimburse the department for  
14 underpayments of actual costs.

15 NEW SECTION. Section 7. Inspection of manufacturer's  
16 and distributor's premises. The department or its authorized  
17 representative shall have the right at any time to inspect  
18 for the purposes of determining whether the laws of Montana  
19 and the department's rules are being complied with:

20 (1) the premises of a licensed manufacturer or  
21 distributor of video draw poker machines and associated  
22 equipment; and

23 (2) the warehouse, trucks, trailers, cars, or aircraft  
24 of any common carrier licensed under this part.

25 NEW SECTION. Section 8. Judicial review of agency

1 July 1, 1987.

-End-

1 decision. (1) Any interested party has the right to judicial  
2 review of a final decision of the department concerning the  
3 grant, denial, renewal, revocation, or suspension of a  
4 license required under this part.

5 (2) A petition for judicial review must conform to the  
6 provisions of Title 2, chapter 4, part 7.

7 NEW SECTION. Section 9. Extension of authority. Any  
8 existing authority of the department of revenue to make  
9 rules on the subject of the provisions of this act is  
10 extended to the provisions of this act.

11 NEW SECTION. Section 10. Authority to proceed with  
12 rulemaking. The department of revenue may initiate  
13 rulemaking proceedings under section 9 on or after passage  
14 and approval of this act, but no rules under sections 2  
15 through 8 may be made effective prior to the effective dates  
16 of those sections.

17 NEW SECTION. Section 11. Codification instruction.  
18 Sections 2 through 8 are intended to be codified as an  
19 integral part of Title 23, chapter 5, part 6, and the  
20 provisions of Title 23, chapter 5, part 6, apply to sections  
21 2 through 8.

22 NEW SECTION. Section 12. Effective dates. (1) This  
23 section and sections 9 and 10 are effective on passage and  
24 approval.

25 (2) Sections 1 through 8 and section 11 are effective

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB066, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring licenses for manufacturers and distributors of video draw poker machines and associated equipment; imposing annual license fees; establishing qualifications for licensure; providing for investigation, bonding, right to hearing, penalties, inspections and judicial review.

ASSUMPTIONS:

- 1) Of 136 distributors operating in the state 78 have 11 or more machines. They will continue to operate if HB066 passes. (Video Poker Control Bureau).
- 2) Of 14 manufacturers operating in the state four are doing little if any business. The remaining ten will continue to conduct business in the state if HB066 passes. (Video Poker Control Bureau).
- 3) The change in number of video draw poker machines licensed in the state will be insignificant. (Video Poker Control Bureau).
- 4) Administrative costs associated with this area of regulation are as follows;
  - A. Additional clerical FTE Grade 6 Step 2 \$ 14,400
  - B. Additional Investigator Grade 13 Step 2 23,850
  - 38,250
- 5) All assumptions except one-time costs apply to both years of the biennium. (Video Poker Control Bureau).

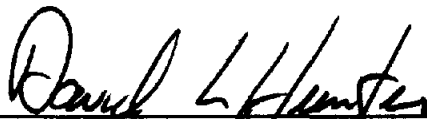
FISCAL IMPACT:Expenditures:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Admin. Costs	\$ 0	\$ (38,250)	\$ (38,250)	\$ 0	\$ (38,250)	\$ (38,250)
<u>Revenue:</u>						
Distrib. License	\$ 0	\$ 117,000	\$ 117,000	\$ 0	\$ 117,000	\$ 117,000
Manuf. License	0	15,000	15,000	0	15,000	15,000
TOTAL	\$ 0	\$ 132,000	\$ 132,000	\$ 0	\$ 132,000	\$ 132,000
Net Impact	\$ 0	\$ 93,750	\$ 93,750	\$ 0	\$ 93,750	\$ 93,750

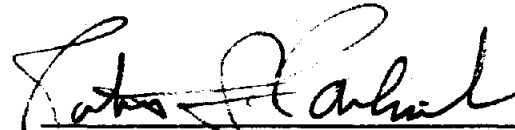
Fund Information:

Earmarked Revenue Fund

(Video Poker Program)	\$ 0	\$ 93,750	\$ 93,750	\$ 0	\$ 93,750	\$ 93,750
-----------------------	------	-----------	-----------	------	-----------	-----------


DATE 1/10/87

DAVID L. HUNTER, BUDGET DIRECTOR  
Office of Budget and Program Planning



DATE

ROBERT J. PAVLOVICH, PRIMARY SPONSOR

Fiscal Note for HB066, as introduced.HB66



Fiscal Note Request: HB066 as introduced.

Form BD-13

Page 2

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

APPROVED BY COMM. ON  
BUSINESS AND LABOR

HOUSE BILL NO. 66

INTRODUCED BY PAVLOVICH

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LICENSES FOR  
MANUFACTURERS-AND-DISTRIBUTORS ~~MANUFACTURERS-DISTRIBUTORS~~ OF  
VIDEO DRAW POKER MACHINES AND ASSOCIATED EQUIPMENT; IMPOSING  
ANNUAL LICENSE FEES; ESTABLISHING QUALIFICATIONS FOR  
LICENSURE; PROVIDING FOR INVESTIGATION, BONDING, RIGHT TO  
HEARING, PENALTIES, INSPECTIONS, AND JUDICIAL REVIEW;  
AMENDING SECTION 23-5-602, MCA; AND PROVIDING EFFECTIVE  
DATES."

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

Section 1. Section 23-5-602, MCA, is amended to read:

"23-5-602. Definitions. As used in this part, the  
following definitions apply:

{1} "Associated equipment" means all PROPRIETARY  
devices, machines, or parts used in the manufacture or  
maintenance of a video draw poker machine, including but not  
limited to integrated circuit chips, printed wired assembly,  
printed wired boards, printing mechanisms, video display  
monitors, and metering devices.

{1}{2} "Department" means the department of revenue.

{3} "Distributor" means an individual, partnership,

corporation, or association that supplies or provides video  
draw poker machines or associated equipment to another  
person for sale, use, or distribution in this state and is  
not a manufacturer;

{2}{4}{3} "Licensed establishment" means an  
establishment that is licensed to sell alcoholic beverages  
for consumption on the premises.

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

{6}{5} "Manufacturer" "MANUFACTURER-DISTRIBUTOR" means  
an individual, partnership, corporation, or association that  
assembles, produces, or AND makes OR SUPPLIES video draw  
poker machines or associated equipment for sale, use, or  
distribution in this state.

{7} "Security" means:

{a} a surety bond executed by a manufacturer or  
distributor as principal with a corporate surety qualified  
under the laws of Montana, which bond must be payable to the  
state of Montana, conditioned upon the faithful performance  
of all requirements of this part, including but not limited  
to the payment of all license fees, application processing  
fees, investigation fees, and penalties; or

~~(b) a deposit made with the department, under such conditions as the department may prescribe, of certificates of deposit or irrevocable letters of credit issued by a bank and insured by the federal deposit insurance corporation.~~

~~(4)(8)(6)~~ "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)(9)(7)~~ "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 this part, 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."

NEW SECTION. Section 2. ~~Manufacturer--or--distributor~~ MANUFACTURER-DISTRIBUTOR of video draw poker machines -- license -- fees. (1) It is unlawful for any person to manufacture, sell, or distribute any video draw poker machine or associated equipment for use or play in this state without having first been issued a ~~manufacturer's--or~~

distributor's MANUFACTURER-DISTRIBUTOR'S license by the department.

(2) The department shall charge an annual license fee of:

~~(a)--\$1,500~~ \$1,000 for the issuance or renewal of a manufacturer's MANUFACTURER-DISTRIBUTOR'S license, and,

~~(b)--\$1,500--for--the--issuance---or---renewal---of---a distributor's license.~~

(3) In addition to other license fees, the department may charge the applicant a one-time ~~manufacturer's--or distributor's~~ MANUFACTURER-DISTRIBUTOR'S license application processing fee. The processing fee may not exceed the department's actual costs for processing an application.

(4) All ~~manufacturer's-----and-----distributor's~~ MANUFACTURER-DISTRIBUTOR'S licenses expire on June 30 of each year, and the license fee may not be prorated.

(5) The department shall retain the license and processing fees collected for purposes of administering this part, except 23-5-615.

NEW SECTION. Section 3. License qualifications -- security--- investigation -- right to hearing. (1) An applicant for issuance or renewal of a ~~manufacturer's--or distributor's~~ MANUFACTURER-DISTRIBUTOR'S license shall:

(a) apply to the department on forms prescribed by the department;

1 (b) establish to the satisfaction of the department  
2 that the applicant's past record and present status as a  
3 manufacturer--or--distributor MANUFACTURER-DISTRIBUTOR of  
4 video draw poker machines or associated equipment and as a  
5 business person and citizen demonstrate that the applicant  
6 is likely to conduct his business in compliance with all  
7 laws.

8 (2)--in-the-case-of-a-corporate-applicant:  
9 (a)--the-corporation-must-be-incorporated:  
10 (i)--in-the-state-of-Montana, although the--corporation  
11 may--be-a-wholly-or-partly-owned-subsi-dary-of-a-corporation  
12 which-is-incorporated-in-another-state-of-the-United-States;  
13 or

14 (ii)-in-another-state--of--the--United--States--if--the  
15 corporation--is--registered--with--the--Montana-secretary-of  
16 state-and-authorized-to-do-business-in-Montana;

17 (b)--all---corporate---officers,---directors,---and  
18 shareholders---must-meet--the--requirements--of--subsection  
19 (1)(b); and

20 (c)--if-the-corporation's-stock-is-traded-on-a-national  
21 stock-exchange, all-corporate-officers--and--directors--and  
22 each--owner-of-5%--or--more--of--the--outstanding-stock-must-meet  
23 the-requirements-of-subsection-(1)(b);

24 (3)--In-the-case-of-any-other-business-entity:  
25 (a)--if--the--applicant--consists--of--more--than--one

1 individual,--each--individual--must-meet-the-requirements-of  
2 subsection-(1)(b); or

3 (b)--if--the--applicant--consists--of--more--than--one  
4 corporation,--each-corporation-must-meet-the-requirements-of  
5 subsection-(2);

6 (4)--No-manufacturer's-or-distributor's-license-may--be  
7 issued--by--the--department--unless--the-applicant-has-filed  
8 security, as-defined-in-23-5-602, with--the--department--to  
9 secure--compliance--with--this-part; The-total-amount-of-the  
10 security-required-of-any-applicant-must-be-equivalent-to-the  
11 reasonable--value--of--all--machines---the---applicant---has  
12 manufactured--or--distributed-for-use-or-play-in-Montana-for  
13 all-previous-license-years-plus-the-department's-estimate-of  
14 the-reasonable-value-of--all--machines--the--applicant--will  
15 manufacture--or--distribute-for-use-or-play-in-Montana-during  
16 the-license-year-applied-for; The-amount-of-the-security-may  
17 not-exceed-\$5,000-per-machine-and-may-be--adjusted--only--at  
18 the-time-of-license-renewal;

19 (5)--Any-surety--for--a--bond-provided-by-an-applicant  
20 must-be-released-and-discharged-from-any-and--all--liability  
21 to--the--state-accruing-on-such-bond-after-the-expiration-of  
22 30-days-from-the-date--the--department--receives--a--written  
23 request--for--release-and-discharge, but-this-provision-does  
24 not-operate-to-relieve, release, or--discharge--the--surety  
25 from--any--liability-already-accrued-or-which-accrues before

1 the expiration of the 30-day period. A license must be  
2 revoked if the manufacturer or distributor does not provide  
3 a new surety or other security before the former surety is  
4 released.

5 (6) The department shall conduct an investigation to  
6 determine whether an applicant for a manufacturer's or  
7 distributor's license qualifies under this part. The  
8 department shall require the applicant to pay the  
9 anticipated actual costs of the investigation in advance  
10 and after the completion of the investigation, shall refund  
11 overpayments or charge and collect amounts sufficient to  
12 reimburse the department for underpayments of actual costs.

13 (7) (2) A person denied a manufacturer's or  
14 distributor's license has the right to a hearing before the  
15 department. The hearing must be conducted in accordance with  
16 the provisions of the Montana Administrative Procedure Act.

17 NEW SECTION. Section 4. Determination of  
18 unsuitability for licensure -- effect. (1) If the department  
19 determines that a manufacturer or distributor  
20 MANUFACTURER-DISTRIBUTOR is unsuitable for issuance of a  
21 license or if a previously issued license is revoked:

22 (a) the department may not approve any new video draw  
23 poker machine or associated equipment manufactured or  
24 distributed by the applicant PRODUCED BY THE  
25 MANUFACTURER-DISTRIBUTOR;

1 (B) THE DEPARTMENT MAY REVOKE A LICENSE FOR A MACHINE  
2 PRODUCED BY THAT MANUFACTURER-DISTRIBUTOR AND OWNED BY A  
3 PERSON IN THE STATE OF MONTANA, AT THE TIME REVOCATION OF  
4 THE MANUFACTURER-DISTRIBUTOR'S LICENSURE ONLY IF, AFTER A  
5 REASONABLE LENGTH OF TIME, THE MACHINE REMAINS OUT OF  
6 COMPLIANCE WITH STATE REQUIREMENTS; AND

7 (b) (C) a manufacturer or distributor  
8 MANUFACTURER-DISTRIBUTOR may not sell, transfer, or offer  
9 for use or play in this state any new video draw poker  
10 machine or associated equipment; and

11 (c) a manufacturer or distributor shall terminate any  
12 association or agreement for the sale, lease, rental, or use  
13 of a video draw poker machine or associated equipment.

14 (2) An ANY ASSOCIATION OR agreement between a  
15 manufacturer or distributor THE MANUFACTURER-DISTRIBUTOR and  
16 a licensee is considered to include a provision for its  
17 termination without liability on the part of the licensee  
18 upon a determination by the department that the manufacturer  
19 or distributor MANUFACTURER-DISTRIBUTOR is unsuitable for  
20 licensure. Failure to include such provisions for  
21 termination in an agreement is not a defense in any action  
22 brought under the provisions of this section to terminate  
23 the agreement.

24 (3) Failure of a licensee to terminate any association  
25 or agreement with a manufacturer or distributor

1 MANUFACTURER-DISTRIBUTOR after receiving notice of the  
2 department's determination of unsuitability for licensure  
3 constitutes grounds for revocation of ~~a--video--draw--poker~~  
4 ~~machine--license~~ THE LICENSEE'S VIDEO DRAW POKER MACHINE  
5 LICENSES.

6 ~~{4)--if-the-department-determines-that--a--manufacturer~~  
7 ~~is--unsuitable--for-issuance-of-a-license-or-if-a-previously~~  
8 ~~issued-license-is-revoked,-the-prior-approval-for-all--video~~  
9 ~~draw-poker-machines-and-associated-equipment-manufactured-by~~  
10 ~~such-manufacturer-is-automatically-revoked-effective-30-days~~  
11 ~~from---the--department's--determination---Any--use--of--such~~  
12 ~~machines-or-associated-equipment-constitutes-operation-of-an~~  
13 ~~illegal-gambling-device;-The--manufacturer--shall--reimburse~~  
14 ~~all--owners--and--licensees--of-such-machines-and-associated~~  
15 ~~equipment-for-all-economic-losses-incurred-as--a--result--of~~  
16 ~~revocation---of---prior---approval--for--such--machines--and~~  
17 ~~associated-equipment;-The-security-required-in-this-part-may~~  
18 ~~be-executed-upon-to-satisfy-the-judgments-entered-on--behalf~~  
19 ~~of-claimants;~~

20 NEW SECTION. Section 5. Penalties -- hearing. ~~{1}~~ If  
21 the department finds ~~reasonable-cause-to--believe,~~ AFTER A  
22 HEARING CONDUCTED PURSUANT TO THE MONTANA ADMINISTRATIVE  
23 PROCEDURE ACT, THAT a person licensed under this part has  
24 violated any of the provisions of this part or the  
25 department's rules, the department may, in addition to the

1 other penalties prescribed:

2 ~~{a}{1}~~ suspend the license for a period of not more  
3 than 180 days;

4 ~~{b}{2}~~ impose a civil penalty not to exceed \$6,000;

5 ~~{c}{3}~~ revoke the license;

6 ~~{d}{4}~~ deny renewal of the license on expiration  
7 thereof; or

8 ~~{e}{5}~~ impose a combination of any two of the  
9 penalties set forth in subsections (1)~~{a}~~ through ~~{i}{d}~~  
10 ~~{4}~~.

11 ~~{2)--A-person-licensed-under-this-part--and--determined~~  
12 ~~by--the--department--to-have-violated-the-provisions-of-this~~  
13 ~~part-or-the-department's-rules-has-the-right--to--a--hearing~~  
14 ~~before--the--department;-The--hearing--must-be-conducted-in~~  
15 ~~accordance-with-the-provisions-of-the-Montana-Administrative~~  
16 ~~Procedure-Act.~~

17 NEW SECTION. Section 6. Examination and approval of  
18 NEW video draw poker machines and associated equipment --  
19 fee. (1) The department shall examine and approve NEW video  
20 draw poker machines and associated equipment which is  
21 manufactured, sold, or distributed for use in this state  
22 before the video draw poker machine or associated equipment  
23 is ~~placed-into-play-or-use~~ PLAYED OR USED.

24 (2) A video draw poker machine or associated equipment  
25 may not be examined or approved by the department until the

1 ~~manufacturer--and--distributor~~ MANUFACTURER-DISTRIBUTOR for  
 2 the machine or associated equipment are IS licensed as  
 3 required in [section 2].

4 (3) The department shall require the ~~manufacturer,~~  
 5 ~~distributor,~~ or ~~licensee~~ MANUFACTURER-DISTRIBUTOR seeking  
 6 the examination and approval of a NEW video draw poker  
 7 machine or associated equipment to pay the anticipated  
 8 actual costs of the examination in advance and, after the  
 9 completion of the examination, shall refund overpayments or  
 10 charge and collect amounts sufficient to reimburse the  
 11 department for underpayments of actual costs.

12 ~~NEW SECTION. Section 7. Inspection of manufacturer's~~  
 13 ~~and distributor's premises. The department or its~~  
 14 ~~authorized representative shall have the right at any time~~  
 15 ~~to inspect for the purposes of determining whether the laws~~  
 16 ~~of Montana and the department's rules are being complied~~  
 17 ~~with:~~

18 ~~(1) the premises of a licensed manufacturer or~~  
 19 ~~distributor of video draw poker machines and associated~~  
 20 ~~equipment; and~~

21 ~~(2) the warehouse, trucks, trailers, cars, or aircraft~~  
 22 ~~of any common carrier licensed under this part.~~

23 NEW SECTION. Section 7. Judicial review of agency  
 24 decision. (1) Any interested party has the right to judicial  
 25 review of a final decision of the department concerning the

1 grant, denial, renewal, revocation, or suspension of a  
 2 license required under this part.

3 (2) A petition for judicial review must conform to the  
 4 provisions of Title 2, chapter 4, part 7.

5 NEW SECTION. Section 8. Extension of authority. Any  
 6 existing authority of the department of revenue to make  
 7 rules on the subject of the provisions of this act is  
 8 extended to the provisions of this act.

9 NEW SECTION. Section 9. Authority to proceed with  
 10 rulemaking. The department of revenue may initiate  
 11 rulemaking proceedings under section 9 8 on or after passage  
 12 and approval of this act, but no rules under sections 2  
 13 through 8 7 may be made effective prior to the effective  
 14 dates of those sections.

15 NEW SECTION. Section 10. Codification instruction.  
 16 Sections 2 through 8 7 are intended to be codified as an  
 17 integral part of Title 23, chapter 5, part 6, and the  
 18 provisions of Title 23, chapter 5, part 6, apply to sections  
 19 2 through 8 7.

20 NEW SECTION. Section 11. Effective dates. (1) This  
 21 section and sections 9 8 and ~~10 9~~ are effective on passage  
 22 and approval.

23 (2) Sections 1 through 8 7 and section ~~11 10~~ are  
 24 effective July 1, 1987.

-End-

## 1 HOUSE BILL NO. 66

2 INTRODUCED BY PAVLOVICH

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LICENSES FOR  
6 ~~MANUFACTURERS-AND-DISTRIBUTORS~~ MANUFACTURERS-DISTRIBUTORS OF  
7 VIDEO DRAW POKER MACHINES AND ASSOCIATED EQUIPMENT; IMPOSING  
8 ANNUAL LICENSE FEES; ESTABLISHING QUALIFICATIONS FOR  
9 LICENSURE; PROVIDING FOR INVESTIGATION, ~~BONDING~~, RIGHT TO  
10 HEARING, PENALTIES, INSPECTIONS, AND JUDICIAL REVIEW;  
11 AMENDING SECTION 23-5-602, MCA; AND PROVIDING EFFECTIVE  
12 DATES."

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 23-5-602, MCA, is amended to read:

16 "23-5-602. Definitions. As used in this part, the  
17 following definitions apply:

18 (1) "Associated equipment" means all PROPRIETARY  
19 devices, machines, or parts used in the manufacture or  
20 maintenance of a video draw poker machine, including but not  
21 limited to integrated circuit chips, printed wired assembly,  
22 printed wired boards, printing mechanisms, video display  
23 monitors, and metering devices.

24 (1)(2) "Department" means the department of revenue.

25 (3) ~~"Distributor" means an individual, partnership,~~

1 ~~corporation, or association that supplies or provides video~~  
2 ~~draw poker machines or associated equipment to another~~  
3 ~~person for sale, use, or distribution in this state and is~~  
4 ~~not a manufacturer;~~

5 (2)(4)(3) "Licensed establishment" means an  
6 establishment that is licensed to sell alcoholic beverages  
7 for consumption on the premises.

8 (3)(5)(4) "Licensee" means an individual, partnership,  
9 or corporation, or association that has been issued a  
10 license by the department for the placement and operation of  
11 video draw poker machines in the licensed establishment of  
12 the individual, partnership, or corporation, or association.

13 (6)(5) "Manufacturer" "MANUFACTURER-DISTRIBUTOR" means  
14 an individual, partnership, corporation, or association that  
15 assembles, produces, or AND makes OR SUPPLIES video draw  
16 poker machines or associated equipment for sale, use, or  
17 distribution in this state.

18 (7) ~~"Security" means:~~

19 (a) ~~a surety bond executed by a manufacturer or~~  
20 ~~distributor as principal with a corporate surety qualified~~  
21 ~~under the laws of Montana, which bond must be payable to the~~  
22 ~~state of Montana, conditioned upon the faithful performance~~  
23 ~~of all requirements of this part, including but not limited~~  
24 ~~to the payment of all license fees, application processing~~  
25 ~~fees, investigation fees, and penalties, or~~



~~(b) a deposit made with the department, under such conditions as the department may prescribe, of certificates of deposit or irrevocable letters of credit issued by a bank and insured by the federal deposit insurance corporation.~~

~~(4)(8)(6)~~ "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)(9)(7)~~ "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 this part, 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."

NEW SECTION. Section 2. ~~Manufacturer or distributor~~ MANUFACTURER-DISTRIBUTOR of video draw poker machines -- license -- fees. (1) It is unlawful for any person to manufacture, sell, or distribute any video draw poker machine or associated equipment for use or play in this state without having first been issued a ~~manufacturer's or~~

distributor's MANUFACTURER-DISTRIBUTOR'S license by the department.

(2) The department shall charge an annual license fee of:

~~(a) \$1,500~~ \$1,000 for the issuance or renewal of a ~~manufacturer's~~ MANUFACTURER-DISTRIBUTOR'S license; and,

~~(b) \$1,500 for the issuance or renewal of a distributor's license.~~

(3) In addition to other license fees, the department may charge the applicant a one-time ~~manufacturer's or distributor's~~ MANUFACTURER-DISTRIBUTOR'S license application processing fee. The processing fee may not exceed the department's actual costs for processing an application.

(4) All ~~manufacturer's and distributor's~~ MANUFACTURER-DISTRIBUTOR'S licenses expire on June 30 of each year, and the license fee may not be prorated.

(5) The department shall retain the license and processing fees collected for purposes of administering this part, except 23-5-615.

NEW SECTION. Section 3. License qualifications -- security -- investigation -- right to hearing. (1) An applicant for issuance or renewal of a ~~manufacturer's or distributor's~~ MANUFACTURER-DISTRIBUTOR'S license shall:

(a) apply to the department on forms prescribed by the department;

1 (b) establish to the satisfaction of the department  
 2 that the applicant's past record and present status as a  
 3 manufacturer--or--distributor MANUFACTURER-DISTRIBUTOR of  
 4 video draw poker machines or associated equipment and as a  
 5 business person and citizen demonstrate that the applicant  
 6 is likely to conduct his business in compliance with all  
 7 laws.

- 8 (2)--in-the-case-of-a-corporate-applicant:
- 9 (a)--the-corporation-must-be-incorporated:
- 10 (i)--in-the-state-of-Montana,--although-the--corporation
- 11 may--be-a-wholly-or-partly-owned-subsi-dia-ry-of-a-corporation
- 12 which-is-incorporated-in-another-state-of-the-United-States;
- 13 or
- 14 (ii)--in-another-state--of--the--United--States--if--the
- 15 corporation--is--registered--with--the--Montana-secretary-of
- 16 state-and-authorized-to-do-business-in-Montana;
- 17 (b)--all----corporate----officers,----directors,----and
- 18 shareholders---must---meet---the---requirements--of--subsection
- 19 (1)(b);--and
- 20 (c)--if-the-corporation's-stock-is-traded-on-a-national
- 21 stock-exchange,--all-corporate--officers--and--directors--and
- 22 each--owner-of-5%--or--more--of--the--outstanding-stock-must-meet
- 23 the-requirements-of-subsection-(1)(b);
- 24 (3)--in-the-case-of-any-other-business-entity:
- 25 (a)--if--the--applicant--consists--of--more--than--one

- 1 individual,--each--individual--must-meet-the-requirements-of
- 2 subsection-(1)(b);--or
- 3 (b)--if--the--applicant--consists--of--more--than--one
- 4 corporation,--each-corporation-must-meet-the-requirements-of
- 5 subsection-(2);
- 6 (4)--No-manufacturer's-or-distributor's-license-may--be
- 7 issued--by--the--department--unless--the--applicant-has-filed
- 8 security,--as-defined-in-23-5-602,--with--the--department--to
- 9 secure--compliance--with--this-part;--The-total-amount-of-the
- 10 security-required-of-any-applicant-must-be-equivalent-to-the
- 11 reasonable--value--of--all--machines---the---applicant---has
- 12 manufactured--or--distributed-for-use-or-play-in-Montana-for
- 13 all-previous-license-years-plus-the-department's-estimate-of
- 14 the-reasonable-value-of--all--machines--the--applicant--will
- 15 manufacture--or--distribute-for-use-or-play-in-Montana-during
- 16 the-license-year-applied-for;--The-amount-of-the-security-may
- 17 not-exceed-\$5,000-per-machine-and-may-be--adjusted--only--at
- 18 the-time-of-license-renewal;
- 19 (5)--Any--surety--for--a--bond-provided-by-an-applicant
- 20 must-be-released-and-discharged-from-any-and--all--liability
- 21 to--the--state-accruing-on-such-bond-after-the-expiration-of
- 22 30-days-from-the-date--the--department--receives--a--written
- 23 request--for--release-and-discharge,--but-this-provision-does
- 24 not-operate-to-relieve,--release,--or--discharge--the--surety
- 25 from--any--liability-already-accrued-or-which-accrues-before

1 the expiration of the 30-day period. A license must be  
 2 revoked if the manufacturer or distributor does not provide  
 3 a new surety or other security before the former surety is  
 4 released.

5 (6) The department shall conduct an investigation to  
 6 determine whether an applicant for a manufacturer's or  
 7 distributor's license qualifies under this part. The  
 8 department shall require the applicant to pay the  
 9 anticipated actual costs of the investigation in advance  
 10 and, after the completion of the investigation, shall refund  
 11 overpayments or charge and collect amounts sufficient to  
 12 reimburse the department for underpayments of actual costs.

13 (7)(2) A person denied a manufacturer's or  
 14 distributor's license has the right to a hearing before the  
 15 department. The hearing must be conducted in accordance with  
 16 the provisions of the Montana Administrative Procedure Act.

17 NEW SECTION. Section 4. Determination of  
 18 unsuitability for licensure -- effect. (1) If the department  
 19 determines that a manufacturer or distributor  
 20 MANUFACTURER-DISTRIBUTOR is unsuitable for issuance of a  
 21 license or if a previously issued license is revoked:

22 (a) the department may not approve any new video draw  
 23 poker machine or associated equipment manufactured or  
 24 distributed by the applicant PRODUCED BY THE  
 25 MANUFACTURER-DISTRIBUTOR;

1 (B) THE DEPARTMENT MAY REVOKE A LICENSE FOR A MACHINE  
 2 PRODUCED BY THAT MANUFACTURER-DISTRIBUTOR AND OWNED BY A  
 3 PERSON IN THE STATE OF MONTANA, AT THE TIME OF REVOCATION OF  
 4 THE MANUFACTURER-DISTRIBUTOR'S LICENSURE ONLY IF, AFTER A  
 5 REASONABLE LENGTH OF TIME, THE MACHINE REMAINS OUT OF  
 6 COMPLIANCE WITH STATE REQUIREMENTS; AND

7 (b)(C) a manufacturer or distributor  
 8 MANUFACTURER-DISTRIBUTOR may not sell, transfer, or offer  
 9 for use or play in this state any new video draw poker  
 10 machine or associated equipment; and

11 (c) a manufacturer or distributor shall terminate any  
 12 association or agreement for the sale, lease, rental, or use  
 13 of a video draw poker machine or associated equipment.

14 (2) An ANY ASSOCIATION OR agreement between a  
 15 manufacturer or distributor THE MANUFACTURER-DISTRIBUTOR and  
 16 a licensee is considered to include a provision for its  
 17 termination without liability on the part of the licensee  
 18 upon a determination by the department that the manufacturer  
 19 or distributor MANUFACTURER-DISTRIBUTOR is unsuitable for  
 20 licensure. Failure to include such provisions for  
 21 termination in an agreement is not a defense in any action  
 22 brought under the provisions of this section to terminate  
 23 the agreement.

24 (3) Failure of a licensee to terminate any association  
 25 or agreement with a manufacturer or distributor

1 MANUFACTURER-DISTRIBUTOR after receiving notice of the  
 2 department's determination of unsuitability for licensure  
 3 constitutes grounds for revocation of a video draw poker  
 4 machine license THE LICENSEE'S VIDEO DRAW POKER MACHINE  
 5 LICENSES.

6 ~~{4}--If--the--department--determines--that--a--manufacturer~~  
 7 ~~is--unsuitable--for--issuance--of--a--license--or--if--a--previously~~  
 8 ~~issued--license--is--revoked,--the--prior--approval--for--all--video~~  
 9 ~~draw--poker--machines--and--associated--equipment--manufactured--by~~  
 10 ~~such--manufacturer--is--automatically--revoked--effective--30--days~~  
 11 ~~from--the--department's--determination,--Any--use--of--such~~  
 12 ~~machines--or--associated--equipment--constitutes--operation--of--an~~  
 13 ~~illegal--gambling--device,--The--manufacturer--shall--reimburse~~  
 14 ~~all--owners--and--licensees--of--such--machines--and--associated~~  
 15 ~~equipment--for--all--economic--losses--incurred--as--a--result--of~~  
 16 ~~revocation--of--prior--approval--for--such--machines--and~~  
 17 ~~associated--equipment,--The--security--required--in--this--part--may~~  
 18 ~~be--executed--upon--to--satisfy--the--judgments--entered--on--behalf~~  
 19 ~~of--claimants.~~

20 NEW SECTION. Section 5. Penalties -- hearing. {1} If  
 21 the department finds reasonable-cause-to-believe, AFTER A  
 22 HEARING CONDUCTED PURSUANT TO THE MONTANA ADMINISTRATIVE  
 23 PROCEDURE ACT, THAT a person licensed under this part has  
 24 violated any of the provisions of this part or the  
 25 department's rules, the department may, in addition to the

1 other penalties prescribed:

2 {a}{1} suspend the license for a period of not more  
 3 than 180 days;

4 {b}{2} impose a civil penalty not to exceed \$6,000;

5 {c}{3} revoke the license;

6 {d}{4} deny renewal of the license on expiration  
 7 thereof; or

8 {e}{5} impose a combination of any two of the  
 9 penalties set forth in subsections (1){a} through {1}{d}  
 10 {4}.

11 {2}--A--person--licensed--under--this--part--and--determined  
 12 by--the--department--to--have--violated--the--provisions--of--this  
 13 part--or--the--department's--rules--has--the--right--to--a--hearing  
 14 before--the--department,--The--hearing--must--be--conducted--in  
 15 accordance--with--the--provisions--of--the--Montana--Administrative  
 16 Procedure--Act.

17 NEW SECTION. Section 6. Examination and approval of  
 18 NEW video draw poker machines and associated equipment --  
 19 fee. (1) The department shall examine and approve NEW video  
 20 draw poker machines and associated equipment which is  
 21 manufactured, sold, or distributed for use in this state  
 22 before the video draw poker machine or associated equipment  
 23 is placed-into-play-or-use PLAYED OR USED.

24 (2) A video draw poker machine or associated equipment  
 25 may not be examined or approved by the department until the

1 manufacturer--and--distributor MANUFACTURER-DISTRIBUTOR for  
 2 the machine or associated equipment are IS licensed as  
 3 required in [section 2].

4 (3) The department shall require the manufacturer,  
 5 distributor, or licensee MANUFACTURER-DISTRIBUTOR seeking  
 6 the examination and approval of a NEW video draw poker  
 7 machine or associated equipment to pay the anticipated  
 8 actual costs of the examination in advance and, after the  
 9 completion of the examination, shall refund overpayments or  
 10 charge and collect amounts sufficient to reimburse the  
 11 department for underpayments of actual costs.

12 ~~NEW SECTION. Section 7. Inspection of manufacturer's~~  
 13 ~~and distributor's premises. The department or its~~  
 14 ~~authorized representative shall have the right at any time~~  
 15 ~~to inspect for the purposes of determining whether the laws~~  
 16 ~~of Montana and the department's rules are being complied~~  
 17 ~~with:~~

18 ~~(1) the premises of a licensed manufacturer or~~  
 19 ~~distributor of video draw poker machines and associated~~  
 20 ~~equipment; and~~

21 ~~(2) the warehouse, trucks, trailers, cars, or aircraft~~  
 22 ~~of any common carrier licensed under this part.~~

23 NEW SECTION. Section 7. Judicial review of agency  
 24 decision. (1) Any interested party has the right to judicial  
 25 review of a final decision of the department concerning the

1 grant, denial, renewal, revocation, or suspension of a  
 2 license required under this part.

3 (2) A petition for judicial review must conform to the  
 4 provisions of Title 2, chapter 4, part 7.

5 NEW SECTION. Section 8. Extension of authority. Any  
 6 existing authority of the department of revenue to make  
 7 rules on the subject of the provisions of this act is  
 8 extended to the provisions of this act.

9 NEW SECTION. Section 9. Authority to proceed with  
 10 rulemaking. The department of revenue may initiate  
 11 rulemaking proceedings under section 9 8 on or after passage  
 12 and approval of this act, but no rules under sections 2  
 13 through 8 7 may be made effective prior to the effective  
 14 dates of those sections.

15 NEW SECTION. Section 10. Codification instruction.  
 16 Sections 2 through 8 7 are intended to be codified as an  
 17 integral part of Title 23, chapter 5, part 6, and the  
 18 provisions of Title 23, chapter 5, part 6, apply to sections  
 19 2 through 8 7.

20 NEW SECTION. Section 11. Effective dates. (1) This  
 21 section and sections 9 8 and 10 9 are effective on passage  
 22 and approval.

23 (2) Sections 1 through 8 7 and section 11 10 are  
 24 effective July 1, 1987.

-End-

HOUSE BILL NO. 66

INTRODUCED BY PAVLOVICH

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LICENSES FOR MANUFACTURERS-AND-DISTRIBUTORS MANUFACTURERS-DISTRIBUTORS OF VIDEO DRAW POKER MACHINES AND ASSOCIATED EQUIPMENT; IMPOSING ANNUAL LICENSE FEES; ESTABLISHING QUALIFICATIONS FOR LICENSURE; PROVIDING FOR INVESTIGATION, BONDING, RIGHT TO HEARING, PENALTIES, INSPECTIONS, AND JUDICIAL REVIEW; AMENDING SECTION 23-5-602, MCA; AND PROVIDING EFFECTIVE DATES."

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

Section 1. Section 23-5-602, MCA, is amended to read:

"23-5-602. Definitions. As used in this part, the following definitions apply:

(1) "Associated equipment" means all PROPRIETARY devices, machines, or parts used in the manufacture or maintenance of a video draw poker machine, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, and metering devices.

{1}{2} "Department" means the department of revenue.

{3}--"Distributor"--means--an--individual, partnership

~~corporation, or association that supplies or provides--video draw-poker--machines--or--associated--equipment--to--another person-for-sale, use, or distribution in this state--and--is not-a-manufacturer.~~

{2}{4}{3} "Licensed establishment" means an establishment that is licensed to sell alcoholic beverages for consumption on the premises.

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

{6}{5} "Manufacturer" "MANUFACTURER-DISTRIBUTOR" means an individual, partnership, corporation, or association that assembles, produces, or AND makes OR SUPPLIES video draw poker machines or associated equipment for sale, use, or distribution in this state.

{7}--"Security"--means:

~~{a)--a--surety--bond--executed--by--a--manufacturer--or distributor--as--principal--with--a--corporate--surety--qualified under--the--laws--of--Montana, which bond must be payable to the state--of--Montana, conditioned upon the faithful performance of all requirements of this part, including but not limited to--the--payment--of--all--license--fees, application-processing fees, investigation fees, and penalties, or~~



~~(b) a deposit made with the department, under such conditions as the department may prescribe, of certificates of deposit or irrevocable letters of credit issued by a bank and insured by the federal deposit insurance corporation.~~

~~(4)(8)(6)~~ "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)(9)(7)~~ "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 this part, 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."

NEW SECTION. Section 2. ~~Manufacturer--or--distributor~~ MANUFACTURER-DISTRIBUTOR of video draw poker machines -- license -- fees. (1) It is unlawful for any person to manufacture, sell, or distribute any video draw poker machine or associated equipment for use or play in this state without having first been issued a ~~manufacturer's--or~~

distributor's MANUFACTURER-DISTRIBUTOR'S license by the department.

(2) The department shall charge an annual license fee of:

~~(a) \$1,500~~ \$1,000 for the issuance or renewal of a ~~manufacturer's~~ MANUFACTURER-DISTRIBUTOR'S license; and,

~~(b) \$1,500 for the issuance or renewal of a distributor's license;~~

(3) In addition to other license fees, the department may charge the applicant a one-time ~~manufacturer's--or~~ MANUFACTURER-DISTRIBUTOR'S license application processing fee. The processing fee may not exceed the department's actual costs for processing an application.

(4) All ~~manufacturer's-----and-----distributor's~~ MANUFACTURER-DISTRIBUTOR'S licenses expire on June 30 of each year, and the license fee may not be prorated.

(5) The department shall retain the license and processing fees collected for purposes of administering this part, except 23-5-615.

NEW SECTION. Section 3. License qualifications -- security-- investigation -- right to hearing. (1) An applicant for issuance or renewal of a ~~manufacturer's--or~~ MANUFACTURER-DISTRIBUTOR'S license shall:

(a) apply to the department on forms prescribed by the department;

1 (b) establish to the satisfaction of the department  
 2 that the applicant's past record and present status as a  
 3 manufacturer--or--distributor MANUFACTURER-DISTRIBUTOR of  
 4 video draw poker machines or associated equipment and as a  
 5 business person and citizen demonstrate that the applicant  
 6 is likely to conduct his business in compliance with all  
 7 laws.

8 (2)--in-the-case-of-a-corporate-applicant:

9 (a)--the-corporation-must-be-incorporated:

10 (i)--in-the-state-of-Montana,-although-the--corporation  
 11 may--be-a-wholly-or-partly-owned-subsi-dia-ry-of-a-corporation  
 12 which-is-incorporated-in-another-state-of-the-United States;  
 13 or

14 (ii)-in-another-state--of--the--United--States--if--the  
 15 corporation--is--registered--with--the--Montana-secretary-of  
 16 state-and-authorized-to-do-business-in-Montana;

17 (b)--all---corporate---officers,---directors,---and  
 18 shareholders---must--meet--the--requirements--of--subsection  
 19 (1)(b);-and

20 (c)--if-the-corporation's-stock-is-traded-on-a-national  
 21 stock-exchange,-all-corporate--officers--and--directors--and  
 22 each--owner-of-5%--or-more-of-the-outstanding-stock-must meet  
 23 the-requirements-of-subsection-(1)(b):

24 (3)--In-the-case-of-any-other-business-entity:

25 (a)--if--the--applicant--consists--of--more--than---one

1 individual,-each--individual--must-meet-the-requirements-of  
 2 subsection-(1)(b);-or

3 (b)--if--the--applicant--consists--of--more--than---one  
 4 corporation,-each-corporation-must-meet-the-requirements-of  
 5 subsection-(2):

6 (4)--No-manufacturer's-or-distributor's-license-may--be  
 7 issued--by--the--department--unless--the-applicant-has-filed  
 8 security,-as-defined-in-23-5-602,-with--the--department--to  
 9 secure--compliance--with--this-part:-The-total-amount-of-the  
 10 security-required-of-any-applicant-must-be-equivalent-to-the  
 11 reasonable--value-of--all--machines---the--applicant---has  
 12 manufactured--or--distributed-for-use-or-play-in-Montana-for  
 13 all-previous-license-years-plus-the-department's-estimate-of  
 14 the-reasonable-value-of--all--machines--the--applicant--will  
 15 manufacture--or-distribute-for-use-or-play-in-Montana-during  
 16 the-license-year-applied-for:-The-amount-of-the-security-may  
 17 not-exceed-\$5,000-per-machine-and-may-be--adjusted--only--at  
 18 the-time-of-license-renewal;

19 (5)--Any--surety--for--a--bond-provided-by-an-applicant  
 20 must-be-released-and-discharged-from-any-and--all--liability  
 21 to--the--state-accruing-on-such-bond-after-the-expiration-of  
 22 30-days-from-the-date--the--department--receives--a--written  
 23 request--for--release-and-discharge;-but-this-provision-does  
 24 not-operate-to-relieve,-release,-or--discharge--the--surety  
 25 from--any--liability-already-accrued-or-which-accrues-before



1 the expiration of the 30 day period; A license must be  
2 revoked if the manufacturer or distributor does not provide  
3 a new surety or other security before the former surety is  
4 released;

5 {6} The department shall conduct an investigation to  
6 determine whether an applicant for a manufacturer's or  
7 distributor's license qualifies under this part; The  
8 department shall require the applicant to pay the  
9 anticipated actual costs of the investigation in advance  
10 and after the completion of the investigation; shall refund  
11 overpayments or charge and collect amounts sufficient to  
12 reimburse the department for underpayments of actual costs;

13 {7}(2) A person denied a manufacturer's or  
14 distributor's license has the right to a hearing before the  
15 department. The hearing must be conducted in accordance with  
16 the provisions of the Montana Administrative Procedure Act.

17 NEW SECTION. Section 4. Determination of  
18 unsuitability for licensure -- effect. (1) If the department  
19 determines that a manufacturer or distributor  
20 MANUFACTURER-DISTRIBUTOR is unsuitable for issuance of a  
21 license or if a previously issued license is revoked:

22 (a) the department may not approve any new video draw  
23 poker machine or associated equipment manufactured or  
24 distributed by the applicant PRODUCED BY THE  
25 MANUFACTURER-DISTRIBUTOR;

1 (B) THE DEPARTMENT MAY REVOKE A LICENSE FOR A MACHINE  
2 PRODUCED BY THAT MANUFACTURER-DISTRIBUTOR AND OWNED BY A  
3 PERSON IN THE STATE OF MONTANA, AT THE TIME OF REVOCATION OF  
4 THE MANUFACTURER-DISTRIBUTOR'S LICENSURE ONLY IF, AFTER A  
5 REASONABLE LENGTH OF TIME, THE MACHINE REMAINS OUT OF  
6 COMPLIANCE WITH STATE REQUIREMENTS; AND

7 {b}(C) a manufacturer or distributor  
8 MANUFACTURER-DISTRIBUTOR may not sell, transfer, or offer  
9 for use or play in this state any new video draw poker  
10 machine or associated equipment; and

11 {c} a manufacturer or distributor shall terminate any  
12 association or agreement for the sale, lease, rental, or use  
13 of a video draw poker machine or associated equipment.

14 (2) An ANY ASSOCIATION OR agreement between a  
15 manufacturer or distributor THE MANUFACTURER-DISTRIBUTOR and  
16 a licensee is considered to include a provision for its  
17 termination without liability on the part of the licensee  
18 upon a determination by the department that the manufacturer  
19 or distributor MANUFACTURER-DISTRIBUTOR is unsuitable for  
20 licensure. Failure to include such provisions for  
21 termination in an agreement is not a defense in any action  
22 brought under the provisions of this section to terminate  
23 the agreement.

24 (3) Failure of a licensee to terminate any association  
25 or agreement with a manufacturer or distributor

1 MANUFACTURER-DISTRIBUTOR after receiving notice of the  
 2 department's determination of unsuitability for licensure  
 3 constitutes grounds for revocation of a ~~video draw poker~~  
 4 ~~machine license~~ THE LICENSEE'S VIDEO DRAW POKER MACHINE  
 5 LICENSES.

6 ~~{4}--If--the--department--determines--that--a--manufacturer~~  
 7 ~~is--unsuitable--for--issuance--of--a--license--or--if--a--previously~~  
 8 ~~issued--license--is--revoked--the--prior--approval--for--all--video~~  
 9 ~~draw--poker--machines--and--associated--equipment--manufactured--by~~  
 10 ~~such--manufacturer--is--automatically--revoked--effective--30--days~~  
 11 ~~from--the--department's--determination--Any--use--of--such~~  
 12 ~~machines--or--associated--equipment--constitutes--operation--of--an~~  
 13 ~~illegal--gambling--device--The--manufacturer--shall--reimburse~~  
 14 ~~all--owners--and--licensees--of--such--machines--and--associated~~  
 15 ~~equipment--for--all--economic--losses--incurred--as--a--result--of~~  
 16 ~~revocation--of--prior--approval--for--such--machines--and~~  
 17 ~~associated--equipment--The--security--required--in--this--part--may~~  
 18 ~~be--executed--upon--to--satisfy--the--judgments--entered--on--behalf~~  
 19 ~~of--claimants.~~

20 NEW SECTION. Section 5. Penalties -- hearing. ~~{1}~~ If  
 21 the department finds ~~reasonable-cause-to-believe,~~ AFTER A  
 22 HEARING CONDUCTED PURSUANT TO THE MONTANA ADMINISTRATIVE  
 23 PROCEDURE ACT, THAT a person licensed under this part has  
 24 violated any of the provisions of this part or the  
 25 department's rules, the department may, in addition to the

1 other penalties prescribed:

- 2 ~~{a}~~(1) suspend the license for a period of not more
- 3 than 180 days;
- 4 ~~{b}~~(2) impose a civil penalty not to exceed \$6,000;
- 5 ~~{c}~~(3) revoke the license;
- 6 ~~{d}~~(4) deny renewal of the license on expiration
- 7 thereof; or
- 8 ~~{e}~~(5) impose a combination of any two of the
- 9 penalties set forth in subsections ~~(1){a}~~ through ~~{1}{d}~~
- 10 (4).

11 ~~{2}--A--person--licensed--under--this--part--and--determined~~  
 12 ~~by--the--department--to--have--violated--the--provisions--of--this~~  
 13 ~~part--or--the--department's--rules--has--the--right--to--a--hearing~~  
 14 ~~before--the--department--The--hearing--must--be--conducted--in~~  
 15 ~~accordance--with--the--provisions--of--the--Montana--Administrative~~  
 16 ~~Procedure--Act.~~

17 NEW SECTION. Section 6. Examination and approval of  
 18 NEW video draw poker machines and associated equipment --  
 19 fee. (1) The department shall examine and approve NEW video  
 20 draw poker machines and associated equipment which is  
 21 manufactured, sold, or distributed for use in this state  
 22 before the video draw poker machine or associated equipment  
 23 is ~~placed-into-play-or-use~~ PLAYED OR USED.

24 (2) A video draw poker machine or associated equipment  
 25 may not be examined or approved by the department until the

1 ~~manufacturer--and--distributor~~ MANUFACTURER-DISTRIBUTOR for  
 2 the machine or associated equipment ~~are~~ IS licensed as  
 3 required in [section 2].

4 (3) The department shall require the ~~manufacturer,~~  
 5 ~~distributor,~~ or ~~licensee~~ MANUFACTURER-DISTRIBUTOR seeking  
 6 the examination and approval of a NEW video draw poker  
 7 machine or associated equipment to pay the anticipated  
 8 actual costs of the examination in advance and, after the  
 9 completion of the examination, shall refund overpayments or  
 10 charge and collect amounts sufficient to reimburse the  
 11 department for underpayments of actual costs.

12 ~~NEW SECTION. Section 7. Inspection of manufacturer's~~  
 13 ~~and distributor's premises. The department or its~~  
 14 ~~authorized representative shall have the right at any time~~  
 15 ~~to inspect for the purposes of determining whether the laws~~  
 16 ~~of Montana and the department's rules are being complied~~  
 17 ~~with:~~

18 ~~(1) the premises of a licensed manufacturer or~~  
 19 ~~distributor of video draw poker machines and associated~~  
 20 ~~equipment; and~~

21 ~~(2) the warehouse, trucks, trailers, cars, or aircraft~~  
 22 ~~of any common carrier licensed under this part.~~

23 NEW SECTION. Section 7. Judicial review of agency  
 24 decision. (1) Any interested party has the right to judicial  
 25 review of a final decision of the department concerning the

1 grant, denial, renewal, revocation, or suspension of a  
 2 license required under this part.

3 (2) A petition for judicial review must conform to the  
 4 provisions of Title 2, chapter 4, part 7.

5 NEW SECTION. Section 8. Extension of authority. Any  
 6 existing authority of the department of revenue to make  
 7 rules on the subject of the provisions of this act is  
 8 extended to the provisions of this act.

9 NEW SECTION. Section 9. Authority to proceed with  
 10 rulemaking. The department of revenue may initiate  
 11 rulemaking proceedings under section 9 8 on or after passage  
 12 and approval of this act, but no rules under sections 2  
 13 through 8 7 may be made effective prior to the effective  
 14 dates of those sections.

15 NEW SECTION. Section 10. Codification instruction.  
 16 Sections 2 through 8 1 are intended to be codified as an  
 17 integral part of Title 23, chapter 5, part 6, and the  
 18 provisions of Title 23, chapter 5, part 6, apply to sections  
 19 2 through 8 7.

20 NEW SECTION. Section 11. Effective dates. (1) This  
 21 section and sections 9 8 and 10 9 are effective on passage  
 22 and approval.

23 (2) Sections 1 through 8 7 and section 11 10 are  
 24 effective July 1, 1987.

-End-