

SB 293 INTRODUCED BY BOYLAN, PAVLOVICH, MANNING
LEGALIZE, LICENSE ELECTRONIC VIDEO TWENTY-ONE
MACHINES

2/05 INTRODUCED
2/05 REFERRED TO BUSINESS & INDUSTRY
2/19 HEARING
2/20 FISCAL NOTE REQUESTED
2/23 FISCAL NOTE RECEIVED
DIED IN COMMITTEE

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Senate BILL NO. *293*

INTRODUCED BY

Carlton
Richard E. Manning

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR LICENSING AND PLACEMENT OF ELECTRONIC VIDEO GAME MACHINES OFFERING THE CARD GAME TWENTY-ONE; AMENDING SECTIONS 23-5-601 THROUGH 23-5-603, 23-5-606, 23-5-607, 23-5-611 THROUGH 23-5-613, AND 23-5-615, MCA; AND PROVIDING EFFECTIVE DATES."

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

Section 1. Section 23-5-601, MCA, is amended to read:

"23-5-601. Short title. This part shall be known and may be cited as the "Video Draw Poker and Twenty-One Machine Control Law of ~~1985~~."

Section 2. Section 23-5-602, MCA, is amended to read:

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

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

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

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

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individual, partnership, or corporation.

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

(5) "Video draw poker machine" means an electronic video game machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker, as provided in 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.

(6) "Video twenty-one machine" means an electronic video game machine that, upon insertion of cash, is available to play or simulate the play of the game of twenty-one, 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."

Section 3. Section 23-5-603, MCA, is amended to read:



1 "23-5-603. Video draw poker and twenty-one machines --
 2 possession -- play -- restriction. No person may place an
 3 electronic video game machine that simulates or offers a
 4 game of poker or twenty-one in his licensed establishment
 5 unless he is licensed under 23-5-612. Machines licensed
 6 under 23-5-612 are legal, and it is legal to play such
 7 machines, except that a person under the age of 18 years may
 8 not play a video draw poker or twenty-one machine. The
 9 provisions of part 3 of this chapter do not apply to or
 10 prohibit video draw poker or twenty-one machines or the
 11 playing of such machines."

12 Section 4. Section 23-5-606, MCA, is amended to read:

13 "23-5-606. Description and specifications. Each video
 14 **draw-poker** machine must:

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

17 (2) be connected with a system consisting of
 18 player-operated terminals. The terminals must be intelligent
 19 devices operated by the players in the manner specified in
 20 this part.

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

24 (4) offer only the game of draw poker or twenty-one
 25 and have the following method of operation:

1 (a) the cards must be shuffled after each hand of
 2 poker is dealt; If the game is twenty-one only a single
deck may be used.

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

7 (c) after shuffling, five cards must be dealt from the
 8 top of the deck; If the game is draw poker five cards must
 9 be dealt.

10 (d) if the game is draw poker:

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

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

18 (e) if the game is twenty-one:

19 (i) any additional cards must be dealt from the
 20 remaining deck in the order of the deck; and

21 (ii) the machine must be capable of paying a bonus on
 22 predefined hands;

23 (f) the game must display the hands for which free
 24 games or credits will be awarded and the number of free
 25

1 games or credits for each hand;

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

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

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

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

16 (i) the name of the licensed establishment;

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

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

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

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

23 (vi) the date;

24 (vii) the machine license number or serial number up to
25 eight digits;

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

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

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

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

9 (i) coins accepted by each coin acceptor;

10 (ii) credits played by player;

11 (iii) credits won by player; and

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

13 (m) the machine must contain electronic metering,
14 using meters that record the following and display them on
15 the video screen:

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

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

20 (iii) total hands ~~of--poker~~ played and total hands ~~of~~
21 ~~poker~~ won;

22 (iv) if the game is draw poker, total winning hands,
23 consisting of a pair, two pair, three of a kind, a straight,
24 a flush, a full house, four of a kind, a straight flush, or
25 five of a kind;

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

3 (vi) total examination of electronic meters;

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

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

12 (i) the name of the licensed establishment;

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

15 (iii) the license number of the machine;

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

18 (v) the date; and

19 (vi) the electronic meter readings required by
20 subsection (4)(m)."

21 Section 5. Section 23-5-607, MCA, is amended to read:

22 "23-5-607. Expected payback -- verification. (1) The
23 department shall prescribe the expected payback value of one
24 credit played to be:

25 (a) at least 80% of the value of a credit if the game

1 is draw poker; or

2 (b) between 87.5% and 92.5% of the value of a credit
3 if the game is twenty-one.

4 (2) Each machine must have an electronic accounting
5 device that the department may use to verify the winning
6 percentage."

7 Section 6. Section 23-5-611, MCA, is amended to read:

8 "23-5-611. State license qualifications -- limitations
9 -- right to hearing. (1) A person who has been granted a
10 license under 16-4-401(2) to sell alcoholic beverages for
11 consumption on the premises may be granted a license for the
12 placement of video draw poker and twenty-one machines in his
13 licensed establishment.

14 (2) A licensee may not have on the premises or make
15 available for play on the premises of his licensed
16 establishment more than five video draw poker machines and
17 two twenty-one machines.

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

22 Section 7. Section 23-5-612, MCA, is amended to read:

23 "23-5-612. State license -- fee -- used video draw
24 poker machines. (1) ~~(a)~~ The department of revenue, upon
25 payment of the fee provided in subsection ~~(1)~~~~(b)~~ (2) and in

1 conformance with rules adopted under 23-5-605, shall issue
2 to the licensee a license for each video draw poker or
3 twenty-one machine.

4 {b}(2) The department shall charge an annual license
5 fee of \$1,500 for each machine. The department ~~shall retain~~
6 ~~5% of the total license fee collected in fiscal years 1986~~
7 ~~and 1987 and shall retain 3% thereafter of the total license~~
8 fee collected for purposes of administering this part,
9 except 23-5-615. The department shall deposit one-third of
10 the remaining fee in the state general fund and forward
11 two-thirds of the remaining fee to the treasurer of the
12 county or the clerk, finance officer, or treasurer of the
13 city or town in which the licensed machine is located, for
14 deposit to the county or municipal treasury. Counties are
15 not entitled to proceeds from fees on licensed machines
16 located in cities and towns. The license expires on June 30
17 of each year, and the fee is prorated. The two-thirds
18 portion of the annual fee is statutorily appropriated to the
19 department as provided in 17-7-502 for deposit to the county
20 or municipal treasury.

21 {2}(3) A used video draw poker machine may be licensed
22 under subsection (1) without meeting the requirements of
23 23-5-606(4)(j), (4)(k), and (4)(o) if the applicant for
24 licensure can establish to the satisfaction of the
25 department that, on the date of application, he owns or

1 possesses a machine which was owned or operated in the state
2 prior to February 3, 1984. A license issued under this
3 subsection expires 1 year from the date of issuance or on
4 July 1, 1987, whichever occurs first."

5 Section 8. Section 23-5-613, MCA, is amended to read:
6 "23-5-613. Investigations and violations. (1) The
7 department shall make necessary investigations, suspend or
8 revoke state licenses for violations of this part, except
9 23-5-615, and hold hearings on such matters. A license may
10 be suspended prior to a hearing upon a finding of danger to
11 public health and welfare but may not be revoked until the
12 hearing is completed.

13 (2) A violation of this part, except 23-5-615, or a
14 rule promulgated under 23-5-605 is a criminal offense, and a
15 fine not to exceed \$10,000 for the first violation and
16 \$15,000 for a subsequent violation must be imposed.

17 (3) If a ~~video--draw--poker~~ machine is operated in
18 violation of this part, except 23-5-615, it may be seized
19 under 23-5-121 and the provisions of 23-5-122 apply.

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

25 (5) Findings of suspected illegal activity must be

1 reported to the appropriate law enforcement agency.

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

9 Section 9. Section 23-5-615, MCA, is amended to read:

10 "23-5-615. Licensing by local governing bodies. (1)
11 Any city, town, or county governing body may issue to a
12 person who meets the qualifications of 23-5-611 a license
13 for each video draw poker or twenty-one machine to be used
14 on the premises of a licensed establishment. A machine may
15 be licensed by a city or town if located in the city or town
16 or by the county if the machine is not located in a city or
17 town.

18 (2) In addition to the license fee paid under
19 23-5-612, a governing body may charge an annual license fee
20 for each license issued under this section. The license
21 expires on June 30 of each year, and the fee must be
22 prorated.

23 (3) Such license fee may not exceed \$1,000."

24 NEW SECTION. Section 10. Extension of authority. Any
25 existing authority of the department of revenue to make

1 rules on the subject of the provisions of this act is
2 extended to the provisions of this act.

3 NEW SECTION. Section 11. Effective dates. (1) This
4 section and section 10 are effective on passage and
5 approval.

6 (2) The remainder of this act is effective July 1,
7 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB293, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for licensing and placement of electronic video game machines offering the card game twenty-one; providing effective dates.

ASSUMPTIONS:

1. Total poker machine license fees will be \$4,255,670 in FY88 and \$4,298,969 in FY89 (Governor's Budget).
2. Under the proposed law a licensee may have 5 poker machines and 2 twenty-one machines on the premises of his licensed establishment. Therefore, the number of twenty-one machines in the state will be proportional to the number of poker machines in the ratio of 2 to 5 in FY89. For FY88 twenty-one machines will average in the ratio of 1 to 5 until they reach the ratio of 2 to 5 in FY89.
3. There will be 2,752 (full year) licensed video poker machines in Montana in FY88 and 2,780 (full year) in FY89. (REAC)
4. There would be a 30% increase in poker licensing, administration and investigations expenditures under the proposed law (Investigations and Enforcement Division estimate).
5. One-third of net video poker license fees are deposited in the general fund. The remaining two-thirds are allocated to local governments.

FISCAL IMPACT:

	<u>FY88</u>			<u>FY89</u>		
<u>Revenue Impact:</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Poker License Fees	\$ 4,255,670	\$ 5,081,270	\$ 825,600	\$ 4,298,969	\$ 5,966,969	\$ 1,668,000

Expenditure Impact:*

Video Poker Program	\$ 212,784	\$ 276,619	\$ 63,835	\$ 214,948	\$ 279,432	\$ 64,484
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*Under the proposed legislation, funds available for administration would be \$177,215 in FY88 and \$179,009 in FY89. These amounts would not be enough to cover anticipated expenditures.

Fund Information:

General Fund	\$ 1,346,281	\$ 1,642,942	\$ 296,661	\$ 1,359,979	\$ 1,929,318	\$ 569,339
Video Poker Program*	212,784	152,438	(60,346)	214,948	179,009	(35,939)
Local Governments	2,696,605	3,285,890	589,285	2,724,042	3,858,642	1,134,600

*Proposed law expenditures are 3% of total license fees, which are insufficient to meet anticipated expenditures.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

The proposed law would increase revenue to local governments by \$1,123,367 in FY88 and \$1,134,600 in FY89.

David L. Hunter DATE 2/23/87

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

Paul Boylan DATE _____
PAUL BOYLAN, PRIMARY SPONSOR

Fiscal Note for SB293, as introduced.

SB 293