SENATE BILL NO. 431

INTRODUCED BY GAGE, HARPER, B. BROWN, MAZUREK, ADDY, STRIZICH, MERCER, CRIPPEN, HANNAH, HARP, VAN VALKENBURG

BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE SENATE

FEBRUARY 15, 1989 INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.

FIRST READING.

FEBRUARY 17, 1989 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.

STATEMENT OF INTENT ADOPTED.

FEBRUARY 20, 1989 PRINTING REPORT.

SECOND READING, PASS CONSIDERATION.

ON MOTION, REREFERRED TO COMMITTEE ON JUDICIARY.

MARCH 2, 1989 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 3, 1989 PRINTING REPORT.

SECOND READING, DO PASS AS AMENDED.

ENGROSSING REPORT.

MARCH 8, 1989 THIRD READING, PASSED. AYES, 33; NOES, 16.

TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 13, 1989

MARCH 6, 1989

MARCH 7, 1989

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INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.

FIRST READING.

APRIL 10, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 11, 1989	PASSED CONSIDERATION FOR THE DAY.
APRIL 12, 1989	SECOND READING, CONCURRED IN AS AMENDED.
	ON MOTION, RULES SUSPENDED TO ALLOW BILL PLACED ON THIRD READING THIS DAY.
	THIRD READING, CONCURRED IN. AYES, 92; NOES, 8.
	RETURNED TO SENATE WITH AMENDMENTS.
	IN THE SENATE
APRIL 15, 1989	RECEIVED FROM HOUSE.
	SECOND READING, AMENDMENTS NOT CONCURRED IN.
APRIL 17, 1989	ON MOTION, FREE CONFERENCE COMMITTEE REQUESTED AND APPOINTED.
	IN THE HOUSE
APRIL 18, 1989	ON MOTION, FREE CONFERENCE COMMITTEE REQUESTED AND APPOINTED.
	IN THE SENATE
APRIL 21, 1989	FREE CONFERENCE COMMITTEE REPORTED.
	SECOND READING, FREE CONFERENCE COMMITTEE REPORT ADOPTED.
	THIRD READING, FREE CONFERENCE COMMITTEE REPORT ADOPTED.
	IN THE HOUSE
APRIL 21, 1989	FREE CONFERENCE

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APRIL 21, 1989 FREE CONFERENCE COMMITTEE REPORT ADOPTED. IN THE SENATE

APRIL 21, 1989

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SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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1 Bet Rown Marguel INTRODUCED BY 2 BY REQUEST OF THE DEPARTMENT OF JUSTICE З A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE 5 PUBLIC GAMBLING LAWS OF MONTANA; PROVIDING FOR LICENSURE AND 6 7 REGULATION OF GAMBLING ACTIVITIES BY THE DEPARTMENT OF JUSTICE: PROVIDING FOR STATUTORY APPROPRIATION; AMENDING 8 9 SECTIONS 17-7-502, 23-5-101 THROUGH 23-5-104, 23-5-108, 23-5-123, 23-5-131, 23-5-135, 23-5-311 THROUGH 23-5-313, 10 11 23-5-321, 23-5-331, 23-5-412 THROUGH 23-5-414, 23-5-431, 12 23-5-503, 23-5-509, 23-5-602, 23-5-603, 23-5-607, 23-5-608, 23-5-610 THROUGH 23-5-613, 23-5-616, 23-5-625, 23-5-631, 13 14 23-5-1101, AND 23-5-1105, MCA; AND REPEALING SECTIONS 23-5-105 THROUGH 23-5-107, 23-5-109, 23-5-121, 23-5-122, 15 16 23-5-124 THROUGH 23-5-127, 23-5-132 THROUGH 23-5-134. 17 23-5-141 THROUGH 23-5-144, 23-5-201 THROUGH 23-5-211, 18 23-5-301 THROUGH 23-5-303, 23-5-314 THROUGH 23-5-316. 19 23-5-322, 23-5-323, 23-5-332, 23-5-401 THROUGH 23-5-403, 20 23-5-411, 23-5-415 THROUGH 23-5-418, 23-5-421 THROUGH 21 23-5-423, 23-5-504 THROUGH 23-5-508, 23-5-510, 23-5-511, 22 23-5-601, 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23 23-5-618, 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103, 24 AND 23-5-1104, MCA."



STATEMENT OF INTENT

2 This bill requires a statement of intent because 3 [section 7] authorizes the department of justice to adopt 4 administrative rules to implement [this act]. [This act] is 5 intended to provide uniform statewide regulation of gambling 6 in Montana under the supervision of the attorney general.

7 It is the intent of the legislature that the department 8 of justice adopt necessary rules to implement uniform 9 statewide regulation of gambling in Montana consistent with 10 the purposes and policies set forth in [section 1] of this 11 bill.

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

14 NEW SECTION. Section 1. Public policy of state 15 concerning gambling. (1) The legislature finds that for the 16 purpose of ensuring the proper gambling environment in this 17 state it is necessary and desirable to adopt a public policy 18 regarding public gambling activities in Montana. The 19 legislature therefore declares it is necessary to:

(a) create and maintain a uniform regulatory climate
that assures players, owners, tourists, citizens, and others
that the gambling industry in this state is fair and is not
influenced by corrupt persons, organizations, or practices;
(b) protect legal public gambling activities from
unscrupulous players and vendors and detrimental influences;

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1 (c) protect the public from unscrupulous proprietors 2 and operators of gambling establishments, games, and 3 devices;

4 (d) protect the state and local governments from those 5 who would conduct illegal gambling activities that deprive 6 those governments of their tax revenues;

7 (e) protect the health, safety, and welfare of all 8 citizens of this state, including those who do not gamble, 9 by regulating gambling activities; and

10 (f) promote and fund programs necessary to provide 11 assistance to those who are adversely affected by legalized 12 gambling, including compulsive gamblers and their families. 13 (2) The legislature adopts the policy that an 14 applicant for a license or permit or other department 15 approval under parts 1 through 6 of this chapter does not 16 have a right to the issuance of a license or permit or the 17 granting of the approval sought. The issuance of a license 18 or permit issued or other department approval granted 19 pursuant to the provisions of parts 1 through 6 of this 20 chapter is a revocable privilege. A holder does not acquire 21 a vested right in the license or permit issued or other 22 department approval granted. A license or permit issued 23 under parts 1 through 6 of this chapter may not be sold, 24 assigned, leased, or transferred.

25 (3) Revenue to fund the expense of administration and

control of gambling as regulated by parts 1 through 6 of 1 this chapter must be derived solely from fees, taxes, and 2 penalties on gambling activities, except the gambling 3 activities of the Montana state lottery and the parimutuel 4 industry. 5

NEW SECTION, Section 2. General application. This 6 7 chapter applies only to public gambling activities within the state of Montana. 8

Section 3. Section 23-5-101, MCA, is amended to read: 9 "23-5-101. Definitions. Unless the context requires 10 otherwise, the following definitions apply to parts 1 11 12 through 6 of this chapter: 13 (1) A-slot-machine-is-defined-as-a-machine-operated-by

inserting--a--coing--tokeng--chipg--trade--checkg--or--paper 14 15 currency-therein-by-the-player-and-from-the-play-of-which-he obtains-or-may-obtain-money-checks7-chips7-tokens7-of-paper 16 currency--redeemable--in-money--Merchandise-vending-machines 17 where-the-element--of--chance--does--not--enter--into--their 18 operation--are--not--within--the--provisions--of--this-part: 19 20 "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 21 22 6 of this chapter. 23 (2) "Application" means a written request for a license or permit issued by the department. The department 24 shall adopt rules describing the forms and information

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1	required for issuance of a license.	1	derve in live time
2	(3) "Authorized equipment" means, with respect to live		drawn in live bingo.
		2	(6) "Card game table" or "table" means a live card
3	keno or bingo, the receptacle and numbered objects drawn	3	game table authorized by permit and made available to the
4	from it, the master board upon which such objects are placed	. 4	public on the premises of a licensed gambling operator.
5	as drawn, the cards or sheets bearing numbers or other	5	(7) "Dealer" means a person with a dealer's license
6	designations to be covered and the objects used to cover	6	issued under part 3 of this chapter.
7	them, the boards or signs, however operated, used to	7	(8) "Department" means the department of justice.
8	announce or display the numbers or designations as they are	8	(9) "Distributor" means a person who:
9	drawn, public address system, and all other articles	9	(a) purchases or obtains from another person equipment
10	essential to the operation, conduct, and playing of live	10	of any kind for use in gambling activities; and
11	keno or bingo.	11	(b) sells, leases, or otherwise furnishes the
12	(4) "Bingo" means a game of chance played for prizes	12	equipment to another person for use in public.
13	with a card bearing a printed design of 5 columns of 5	13	(10) "Gambling" or "gambling activity" means risking
14	squares each, 25 squares in all. The letters B-I-N-G-O must	14	money, credit, deposit, check, property, or any other thing
15	appear above the design, with each letter above one of the	15	of value for a gain that is contingent in whole or in part
16	columns. No more than 75 numbers may be used. One number	16	upon lot, chance, or the operation of a gambling device or
17	must appear in each square, except for the center square	17	gambling enterprise.
18	which is considered a free play. Numbers and letters are	18	(11) "Gambling device" means a mechanical,
19	drawn from a receptacle and announced by a bingo caller	19	electromechanical, or electronic device, machine, slot
20	using authorized equipment, and the game is won by the	20	machine, instrument, apparatus, contrivance, scheme, or
21	person who first covers a previously designated arrangement	21	system.
22	of numbers on the bingo card.	22	(12) "Gambling enterprise" means an activity, scheme,
23	(5) "Bingo caller" means a person licensed by the	23	or agreement or an attempted activity, scheme, or agreement
24	department to work as a live bingo caller who, using	24	to provide gambling or a gambling device to the public.
25	authorized equipment, announces the order of the objects	25	(13) "Illegal gambling device" means a gambling device

1	not specifically authorized by statute or by the rules of
2	the department.
3	<u>(14)</u> "Illegal gambling enterprise" means a gambling
4	enterprise that violates a statute or a rule of the
5	department.
6	(15) "Keno" means a game of chance in which prizes are
7	awarded using a card with 8 horizontal rows and 10 columns
8	on which a player may pick up to 10 numbers. A keno caller,
9	using authorized equipment, shall select at random 20
10	numbers out of numbers between 1 and 80, inclusive.
11	(16) "Keno caller" means a person licensed by the
12	department to work as a live keno caller who, using
13	authorized equipment, announces the order of the numbers
14	drawn in live keno.
15	(17) "License" means an operator's, dealer's, caller's
16	or manufacturer-distributor's license issued to a person by
17	the department.
18	(18) "Licensee" means a person who has received a
19	license from the department.
20	(19) "Live card game", "card game", or "game" means a
21	card game that is played in public between persons on the
22	premises of a licensed gambling operator.
23	(20) "Lottery" or "gift enterprise" means a scheme, by
24	whatever name known, for the disposal or distribution of
25	property by chance among persons who have paid or promised

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1	to pay valuable consideration for the chance of obtaining
2	the property or a portion of it or for a share or interest
3	in the property upon an agreement, understanding, or
4	expectation that it is to be distributed or disposed of by
5	lot or chance. However, "gift enterprise" does not mean:
6	(a) lotteries authorized under part 10 of this
7	chapter; or
8	(b) cash or merchandise attendance prizes or premiums
9	that the county fair commissioners of agricultural fairs and
10	rodeo associations may give away at public drawings at fairs
11	and rodeos.
12	(21) "Manufacturer" means a person who assembles from
13	raw materials or subparts a completed piece of equipment or
14	pieces of equipment of any kind to be used as a gambling
15	device.
16	(22) "Operator" means a person who purchases, receives,
17	or acquires, by lease or otherwise, and operates or controls
18	for use in public, a gambling device or gambling enterprise
19	authorized under parts 1 through 6 of this chapter.
20	(23) "Permit" means approval from the department to
21	make available for public play a gambling device or gambling
22	enterprise approved by the department pursuant to parts 1
23	through 6 of this chapter.
24	(2)(24) Inadditiontotheirordinarymeaningthe

25 words-"person" "Person" or "persons",-as-used-in-this-part;

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1	include means both natural and artificial persons and all
2	partnerships, corporations, associations, clubs, fraternal
3	orders, and societies, including religious;-fraternal; and
4	charitable organizations.
5	(25) "Premises" means the physical building or property
6	within or upon which a licensed gambling activity occurs, as
7	stated on an operator's license application and approved by
8	the department.
9	(26) "Public" means:
10	(a) a place, building, or conveyance to which the
11	public has access or may be permitted to have access; or
12	(b) a place of public resort, including but not
13	limited to a facility owned, managed, or operated by a
14	partnership, corporation, association, club, fraternal
15	order, or society, including a religious, fraternal, or
16	charitable organization.
17	(27) "Raffle" means a gift enterprise in which each
18	participant buys a chance or chances to win a prize.
19	(28) "Slot machine" means a mechanical, electrical,
20	electronic, or other gambling device, contrivance, or
21	machine that, upon insertion of a coin, currency, token,
22	credit card, or similar object or upon payment of any
23	valuable consideration, is available to play or operate, the
24	play or operation of which, whether by reason of the skill
25	of the operator or application of the element of chance, or

1	both, may deliver or entitle the person playing or operating
2	the gambling device to receive cash, premiums, merchandise,
3	tokens, or anything of value, whether the payoff is made
4	automatically from the machine or in any other manner. This
5	definition does not apply to video gambling machines
6	authorized under part 6 of this chapter.
7	(29) "Video gambling machine" is a gambling device
8	specifically authorized by part 6 of this chapter and the
9	rules of the department."
10	NEW SECTION. Section 4. Authority of local
11	governments to regulate gambling. (1) A local government may
12	not license, regulate, or otherwise limit a form of gambling
13	authorized by parts 1 through 6 of this chapter unless
14	specifically authorized by statute.
15	(2) An incorporated city or town may enact an
16	ordinance or resolution defining certain areas within its
17	incorporated limits in which gambling is prohibited.
18	(3) A county may enact a resolution defining certain
19	areas in the county, not within an incorporated city or
20	town, in which gambling is prohibited.
21	(4) A county or incorporated city or town may not
22	restrict the number of licenses that the department may
23	issue.
24	NEW SECTION, Section 5. Department as criminal
25	justice agency. The department is a criminal justice agency.

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Designated agents of the department are granted peace
 officer status to investigate, regulate, and control all
 legal and illegal gambling activities in this state
 regulated by parts 1 through 6 of this chapter and the rules
 of the department.

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6 <u>NEW SECTION.</u> Section 6. Department employees ---7 activities prohibited. An employee of the department 8 directly involved with the prosecution, investigation, 9 regulation, or licensing of gambling may not:

(1) serve as an officer or manager of a corporation ororganization that conducts a gambling activity;

12 (2) receive or share in, directly or indirectly, any
13 profit of a gambling activity regulated by the department;
14 (3) have a beneficial or pecuniary interest in a
15 contract for the manufacture or sale of a gambling device,

16 the conduct of a gambling activity, or the provision of 17 independent consultant services in connection with a 18 gambling activity.

<u>NEW SECTION.</u> Section 7. Powers and duties of
 department -- licensing. (1) The department shall administer
 the provisions of parts 1 through 6 of this chapter.

(2) The department shall adopt rules to administer and
implement parts 1 through 6 of this chapter.

24 (3) The department shall provide licensing procedures,
25 prescribe necessary application forms, and grant or deny

1 license applications.

2 (4) The department shall prescribe recordkeeping 3 requirements for licensees, provide a procedure for 4 inspection of records, provide a method for collection of 5 taxes, and establish penalties for the delinquent reporting 6 and payment of required taxes.

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7 (5) The department may suspend, revoke, deny, or place
8 a condition on a license issued under parts 1 through 6 of
9 this chapter.

10 (6) The department may not make public or otherwise 11 disclose information obtained in the tax reporting 12 processes, except for general statistical reporting or 13 studies.

14 <u>NEW SECTION.</u> Section 8. Injunction and other 15 remedies. (1) If it appears to the department that a person 16 has engaged in or is about to engage in an act or practice 17 constituting a violation of a provision of parts 1 through 6 18 of this chapter or a rule or order of the department, it 19 may:

(a) issue a temporary cease and desist order with
reasonable notice and opportunity for hearing. Following a
hearing or if the person to whom the notice is addressed
does not request a hearing within 15 days after receipt of
the notice, the department may issue a permanent cease and
desist order that must remain in effect pending an appeal or

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judicial review by the person aggrieved by a final order of 1 2 the department. (b) bring, without the issuance of a cease and desist 3 order, an action in district court to enjoin the act or 4 practice. On a proper showing, the court may grant a 5 permanent or temporary injunction, a restraining order, or 6 7 other appropriate writ and appoint a receiver or conservator for the defendant or the defendant's assets. The department 8 may not be required to post a bond. 9 (c) place a licensee on probation; 10 (d) suspend a license for a period not to exceed 180 11 days; 12 (e) revoke a license; 13 (f) deny renewal of a license upon its expiration; 14 15 (c) impose a civil penalty not to exceed \$10,000 for each violation of a provision of parts 1 through 6 of this 16

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17 chapter or a rule of the department, whether or not the 18 person is licensed by the department;

19 (h) impose a combination of the penalties provided in 20 subsections (1)(a) through (1)(g).

(2) A fine imposed by a district court or by the
department under this section must be collected by the
department and deposited in the special revenue account as
provided in 23-5-123.

25 (3) Imposition of a fine under this section is an

order from which an appeal may be taken pursuant to [section
 12].

3 (4) If a person fails to pay a fine imposed under this 4 section, the fine is a lien on all of the augets and 5 property of the person in the state and may be recovered by 6 the department in a civil action.

7 (5) If a person fails to pay a fine imposed under this
8 section, he may not be licensed to operate a gambling device
9 or gambling enterprise in the state under parts 1 through 6
10 of this chapter.

Section 9. Section 23-5-123, MCA, is amended to read: 11 12 "23-5-123. Disposal of money confiscated by reason of violation of gambling laws. All-money-seized-or-taken-by-any 13 peace--officer--and--confiscated--by--order-of-any-court;-by 14 15 reason-of-a-violation-of-the-gambling-laws-of-the--state--of Montanay-shall-be-deposited-with-the-county-treasurer-of-the 16 17 county--in--which-such-seizure-and-confiscation-was-made-and shall-be-credited-to-the-poor-fund-of-the-county. All fines, 18 penalties, forfeitures, and confiscated money collected by 19 criminal, civil, or administrative process for a violation 20 21 of a provision of parts 1 through 6 of this chapter or a 22 rule of the department must be deposited in a special revenue account for use by the department for: 23 in the 24 (1) training law enforcement personnel

25 investigation of illegal gambling activity;

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1 (2) training persons licensed under the authority of 2 the department; or

3 (3) funding programs designed to treat persons with
4 habitual gambling problems."

5 <u>NEW SECTION.</u> Section 10. Qualifications for 6 licensure. (1) A person whom the department determines is 7 qualified to receive a license under the provisions of this 8 chapter, except for the provisions of part 10, may be issued 9 a state gambling license.

10 (2) The applicant has the burden of proving his11 qualification to receive a license.

12 (3) An application for a license may not be granted13 unless the department is satisfied that the applicant is:

14 (a) a person of good character, honesty, and 15 integrity;

(b) a person whose prior activities, criminal record,if any, reputation, habits, and associations do not:

(i) pose a threat to the public interest of the state
or to the effective regulation and control of gambling; or
(ii) create or enhance the dangers of illegal
practices, methods, and activities in the conduct of
gambling or in the carrying on of the business and financial
arrangements incidental to the conduct of gambling; and

(c) in all other respects qualified to be licensedconsistent with the declared gambling policy of the state.

1 (4) A license to operate a gambling activity may not 2 be issued unless the applicant has demonstrated to the 3 department that:

4 (a) the applicant has adequate business probity,
5 competence, and experience; and

(b) the proposed financing of the entire operation is:
(i) adequate for the nature of the proposed operation;

9 (ii) from a suitable source. A lender or other source 10 of money or credit that the department finds does not meet 11 the standards set forth in subsection (3) may be considered 12 unsuitable.

13 <u>NEW SECTION.</u> Section 11. Operator of gambling 14 establishment -- license -- fee. (1) It is a misdemeanor for 15 a person who is not licensed by the department as an 16 operator to make available to the public for play a gambling 17 device or gambling enterprise.

18 (2) An operator's license must include the following19 information:

20 (a) a description of the premises upon which the21 gambling will take place;

22 (b) the operator's name;

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and

(c) a description of each gambling device or card game
table licensed to the operator by the department for play
upon the premises, including the type of game and license

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number or decal number for each licensed game; and 2

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(d) any other relevant information determined 3 necessary by the department.

(3) The operator's license must be issued annually 4 along with all other licenses for gambling devices or games 5 licensed to the operator. 6

7 (4) The operator's license must be updated each time a 8 gambling device or card game table license is newly issued 9 or the device or game is removed from the premises.

10 (5) The department may not charge a fee for the 11 issuance of an operator's license.

12 (6) The operator's license must be prominently 13 displayed upon the premises for which it is issued.

NEW SECTION. Section 12. Judicial review. (1) (a) A 14 15 person aggrieved by a final order of the department may 16 obtain a review of the order in district court by filing 17 with the court, within 30 days after entry of the final 18 order, a written petition requesting that the order be 19 modified or set aside in whole or in part.

(b) A copy of the petition must be served upon the 20 department at the same time. When the department receives 21 the copy of the petition, it shall certify and file in court 22 a copy of the filing, testimony, and other evidence upon 23 which the final order was entered by the department. When 24 these have been filed with the court, the court has 25

exclusive jurisdiction to affirm, modify, enforce, or set 1 aside the final order in whole or in part. A temporary cease 2 and desist order from the department must remain in effect 3 and cannot be set aside by the court until a hearing has Δ 5 been held and a final order has been issued pursuant to [section 8]. 6

(2) (a) The review must be conducted by the district 7 court without a jury and must be confined to the record. In 8 9 a case of alleged irregularity in procedure before the department not shown in the record, proof may be taken by 10 11 the court. The court, upon request, shall hear oral argument 12 and receive written briefs.

13 (b) The court may not substitute its judgment for that of the department as to the weight of the evidence on 14 questions of fact. The court may affirm the decision of the 15 16 department or remand the case for further proceedings. The court may reverse or modify the decision if substantial 17 18 rights of the appellant have been prejudiced because the 19 administrative findings, inferences, conclusions, or 20 decisions are:

21 (i) in violation of a constitutional or statutory provision; 22

(ii) in excess of the statutory authority of the 23 24 department;

25 (iii) made upon unlawful procedure;

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1	(iv) affected by other error of law;
2	(v) clearly erroneous in view of the reliable,
3	probative, and substantial evidence on the whole record;
4	(vi) arbitrary or capricious or characterized by abuse
5	of discretion or clearly unwarranted exercise of discretion;
6	or
7	(vii) inadequate because findings of fact, upon issues
8	essential to the decision, were requested but not made.
9	(3) The commencement of proceedings under this
10	section, unless specifically ordered by the court, may not
11	operate as a stay of the department's final order.
12	Section 13. Section 23-5-131, MCA, is amended to read:
13	*23-5-131. Losses at gambling may be recovered in
14	civil action. If-any-person,-by-playing-or-betting-at-any-of
15	thegamesprohibited-by-this-part;-loses-to-another-person
16	any-sum-of-money-or-thing-of-value-and-pays-or-deliversthe
17	sameoranypart-thereof-to-any-person-connected-with-the
18	operating-or-conductingofsuchgameyeitherasownery
19	deater,oroperator,theperson-who-so-toses-and-pays-or
20	delivers-may;-at-any-time-within-60-days-next-after-the-loss
21	and-payment-or-delivery;-suc-for-and-recoverthemoneyor
22	thingofvaluesolost-and-paid-or-delivered-or-any-part
23	thereof-from-anypersonhavinganyinterest;director
24	contingent;-in-the-game-as-owner;-backer;-or-otherwise;-with
25	costs of suity-by-civil-action-before-any-court-of-competent

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1	jurisdiction;togetherwithexemplary-damages-which-in-no
2	case-shall-be-less-than-\$50-or-more-than-\$500;-and-mayjoin
3	asdefendants-in-said-suit-all-persons-having-any-interest;
4	direct-or-contingenty-in-such-game-asbackersyownersyor
5	otherwiser A person, or his dependent or guardian, who, by
6	playing or betting at an illegal gambling device or illegal
7	gambling enterprise, loses money, property, or any other
8	thing of value and pays and delivers it to another person
9	connected with the operation or conduct of the illegal
10	gambling device or illegal gambling enterprise, within 1
11	year following his loss, may:
12	(1) bring a civil action in a court of competent
13	jurisdiction to recover the loss;
14	(2) recover the costs of the civil action and
15	exemplary damages of no less than \$500 and no more than
16	\$5,000; and
17	(3) join as a defendant any person having an interest
18	in the illegal gambling device or illegal gambling
19	enterprise."
20	Section 14. Section 23-5-135, MCA, is amended to read:
21	"23-5-135. Discharge of defendant. Upon-discoveryand
22	repaymentofthemoneyorotherthing7theperson
23	discovering-and-repaying-the-same;-with-costsandsuchan
24	amountofexemplarydamagesas-may-be-aggeed-upon-by-the
25	parties-or-fixedbythecourtyshallbeacquittedand

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1	discharged-from-any-further-or-other-forfeiture7-punishment;
2	penaltyor-prosecution-he-or-they-may-have-incurred-for-so
3	winning-such-money-or-thing-discoveredandrepaid- (1) A
4	person against whom a civil action is brought as provided in
5	23-5-131 may move to have the action against him dismissed
6	if he has repaid to the person who suffered the loss or his
7	dependent the gambling loss, the costs of bringing the civil
8	action, and the exemplary damages agreed upon by the parties
9	or assessed by the court.
10	(2) A civil action brought to recover gambling losses
11	does not bar or interfere with another proceeding or action,
12	whether criminal, civil, or administrative, that may be
13	brought under the laws of the state.
14	(3) The clerk of the court shall notify the department
15	of a civil action based on a violation of a provision of
16	this chapter."
17	Section 15. Section 23-5-102, MCA, is amended to read:
18	"23-5-102. Gambling prohibitedpenalty. Except as
19	otherwiseprovided-by-lawy-a-person-who-engages-in-gambling
20	in-any-form-with-cards;-dice;-or-other-implements-or-devices
21	of-any-kind-wherein-anything-valuable-maybewageredupon
22	theoutcomeorwhokeepsanyestablishment;place;
23	equipment, or apparatus for such gambling or any agents or
24	employees for-such-purpose-is-guilty-of-a-misdemeanor-and-is
25	punishable -byafineofnot-less-than-\$100-or-more-than

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l	\$17000-or-imprisonment-not-less-than-3-months-or-more-than-1
2	year-or-by-bothauchfineandimprisonment specifically
3	authorized by statute, all forms of public gambling,
4	lotteries, and gift enterprises are prohibited."
5	NEW SECTION. Section 16. Counterfeiting or defacing
6	documents penalty. (1) A person commits the offense of
7	counterfeiting or defacing a document when he purposely or
8	knowingly counterfeits, alters, or wrongfully displays a
9	seal, decal, license, identification number or device, or
10	other document issued by the department.
11	(2) A person convicted of the offense of
12	counterfeiting or defacing a document is guilty of a felony
13	and must be punished in accordance with [section 24].
14	Section 17. Section 23-5-108, MCA, is amended to read:
15	23-5-108. Soliciting or persuading persons to visit
16	play illegal gambling resorts device prohibited. Anyperson
17	whopersuadesor-solicits-another-to-visit-any-roomy-tent;
18	apartment;-orplaceusedorrepresentedbytheperson
19	soliciting-or-persuading-to-be-a-place-used-for-the-purpose
20	of-running-any-of-the-games-prohibited-by-this-part-shall-be
21	punished-by-a-fine-of-not-less-than-\$100-or-more-than-\$1,000
22	or-imprisonment-not-less-than-3-months-or-more-thanlyear
23	orby-both-such-fine-and-imprisonment-in-the-county-jail- \underline{A}
24	person who advertises for or solicits another person to play
25	or engage in the use of an illegal gambling device is guilty

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1 of a misdemeanor and is punishable under [section 23]."

NEW SECTION. Section 18. Obtaining anything of value 2 by fraud or operation of illegal gambling device or 3 enterprise. (1) A person who by gambling obtains money, 4 property, or anything of value that does not exceed \$300 in 5 value by misrepresentation, fraud, or the use of an illegal 6 7 gambling device or an illegal gambling enterprise is guilty of a misdemeanor and is punishable as provided in [section 8 9 23].

10 (2) A person who by gambling obtains money, property, 11 or anything of value that exceeds \$300 in value by 12 misrepresentation, fraud, or the use of an illegal gambling 13 device or an illegal gambling enterprise is guilty of a 14 felony and is punishable as provided in [section 24].

15 NEW SECTION. Section 19. Gambling on cash basis. (1) In every gambling activity the consideration paid for the 16 17 chance to play must be cash. A participant shall present the 18 money needed to play the game as the game is being played. A 19 check, credit card, note, IOU, or other evidence of 20 indebtedness may not be offered or accepted as part of the 21 price of participation in the gambling activity or as 22 payment of a debt incurred in the gambling activity.

23 (2) A person who violates this section is guilty of a
24 misdemeanor and must be punished in accordance with [section
25 23].

<u>NEW SECTION.</u> Section 20. Minors not to participate - penalty. (1) A person under 18 years of age may not be permitted to participate in a gambling activity.

4 (2) A person who violates this section is guilty of a
5 misdemeanor and must be punished in accordance with [section
6 23].

Section 21. Section 23-5-103, MCA, is amended to read: 7 *23-5-103. Possession of illegal gambling implements 8 device prohibited -- exception. Any (1) Except as provided 9 in [section 22] and subsection (2) of this section, it is a 10 misdemeanor punishable under [section 23] for a person who 11 has to have in his possession or under his control or who 12 permits to permit to be placed, maintained, or kept in any 13 room, space, enclosure, or building owned, leased, or 14 occupied by him or under his management or control any--fare 15 boxy---faro--layouty--roulette--wheely--roulette--tabley-crap 16 table;-punchboard;-or-any-machine-or-apparatus-of--the--kind 17 mentioned--in--23-5-102--is-punishable-by-a-fine-of-not-less 18 than-\$100-or-more-than-\$1,000-and-may-be-imprisoned-for--not 19 less--than-3-months-or-more-than-1-year-in-the-discretion-of 20 the-courty-provided-that-this-section-shall-not an illegal 21 gambling device. This section does not apply to a public 22 officer or to a person coming into possession thereof of an 23 illegal gambling device in or by reason of the performance 24 of an official duty and holding the-same it to be disposed 25

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1	of according to law.	1	antique slot machine is a slot machine manufactured prior to
2	(2) (a) The department may adopt rules to license	2	1950 that is operated exclusively by mechanical means and is
3	persons to manufacture gambling devices that are not legal	3	not aided in whole or in part by any electrical means.
4	for public play in the state and are manufactured only for	. 4	(3)(2) Except as provided in subsection (4) (3), an
5	export from the state.	5	antique slot machines machine may be possessed, located, and
б	(b) A person may not manufacture or possess an illegal	6	operated only in a private residential dwelling.
7	gambling device for export from the state without having	7	(4)(3) Antique-stot-machines An antique slot machine
8	obtained a license from the department. The department may	8	may be possessed or located for purposes of display only and
9	charge an administrative fee for the license that is	9	not for operation in any public museum owned and operated by
10	commensurate with the cost of issuing the license."	10	the state of -Montana, or a county, or a city.
11	Section 22. Section 23-5-104, MCA, is amended to read:	11	<pre>(5)(4) No antique slot machine may be operated for any</pre>
12	"23-5-104. Stotmachinespossessionunlawful	12	commercial or charitable purpose."
13	exception Possession of antique slot machines. (1) Except-as	13	NEW SECTION. Section 23. Criminal liabilities
14	provided-in-subsections-(2)through(5);itshallbea	14	misdemeanor. A person who purposely or knowingly violates a
15	misdemeanorandpunishable-as-hereinafter-provided-for-any	15	provision of parts 1 through 6 of this chapter, the
16	person-to-use7-possess7-operate7-keep7-or-maintainforuse	16	punishment of which is for a misdemeanor, must, upon
17	oroperationorotherwise;anywherewithin-the-state-of	17	conviction, be fined not less than \$500 or more than \$5,000,
18	Montana;-any-sist-machine-of-any-sort-or-kind-whatsoever.	18	or imprisoned for not more than 1 year, or both, for each
19	<pre>t2tThe-provisions-of-subsection-t1t-and23-5-121do</pre>	19	violation.
20	notapplyto-antique-slot-machines-possessed7-located7-and	20	NEW SECTION. Section 24. Criminal liabilities
21	used-in-accordance-with-subsections-(2)-through-(5)-Por-the	21	felony. A person who purposely or knowingly violates a
22	purposes-of-subsections-(2)-through(5),anantiqueslot	22	provision of parts 1 through 6 of this chapter, the
23	machineisaslot-machine-manufactured-prior-to-1950,-the	23	punishment for which is a felony, may upon conviction be
24	operation-of-which-is-exclusively-mechanical-innatureand	24	fined not more than \$50,000 or imprisoned for not more than
25	is-not-aided-in-whole-or-in-part-by-any-electronic-means. An	25	10 years, or both, for each violation. However, if the

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person previously has been convicted of a felony involving
 a gambling device, gambling activity, or gambling
 enterprise, he must be imprisoned for at least 2 years.

NEW SECTION. Section 25. Prosecution. The 4 county attorney of the county in which a violation of a provision 5 6 of parts 1 through 6 of this chapter occurs shall prosecute 7 all gambling actions within the jurisdiction of the 8 department. However, if the county attorney declines prosecution or fails to commence an action within a 9 10 reasonable time, the attorney general may initiate and 11 conduct the prosecution on behalf of the state.

12 Section 26. Section 23-5-311, MCA, is amended to read: 13 "23-5-311. Authorized card games. (+)-it-is-unlawful 14 for-any-person-to-conduct-or-participate-in-any-card-game-or 15 make-any-tables-available-for--the--playing--of--card-games 16 except-those-card-games-authorized-by-this-part;

17 $\pm 2\pm (1)$ The card games authorized by this part are and 18 are limited to the card games known as bridge, cribbage, 19 hearts, panguingue, pinochle, pitch, poker, rummy, solo, and 20 whist₇-soto₇-and-poker.

(2) A person may only conduct or participate in a live
 card game or make a live card game table available for
 public play of a live card game that is specifically
 authorized by this part and described by department rules.
 (3) This part does not apply to games simulated on

electronic video gambling machines authorized under part 6
 of this chapter."

3 <u>NEW SECTION.</u> Section 27. Presence and control of 4 dealer. A live card game may not be played except on a live 5 card game table in the presence and under the control of a 6 licensed dealer on the premises of a licensed operator.

NEW SECTION. Section 28. Card game dealers -license. (1) A person may not deal cards in a live card game
without being licensed annually by the department.

10 (2) The fee for each year in which the license is
11 effective must be commensurate with the administrative costs
12 associated with dealer licensing as established by
13 department rules. The fee may not be prorated.

14 (3) The department shall retain for administrative
15 purposes the license fee charged for the issuance of a
16 dealer's license.

17 (4) A licensed dealer shall have on his person, and
18 display upon request, his dealer's license when he is
19 working as a dealer.

20 (5) The department may adopt rules to implement 21 temporary licensing procedures until a permanent license is 22 issued to a dealer. The department may delegate the 23 authority to issue temporary licenses to local governments 24 including the authority to assess and retain a fee for the 25 temporary license.

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NEW SECTION. Section 29. Live card game table -permit -- fees -- disposition of fees. (1) A person who has
been granted an operator's license under [section 11] and a
license under 16-4-401(2) to sell alcoholic beverages for
consumption on the premises may be granted an annual permit
for the placement of live card game tables.

7 (2) The annual permit fee in lieu of taxes for each
8 live card game table operated in a licensed operator's
9 premises may not be prorated and must be:

10 (a) \$250 for the first table;

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11 (b) \$750 for the second table; and

12 (c) \$1,000 for the third and each additional table.

13 (3) The department shall retain for administrative
14 purposes \$100 of the fee collected under this part for each
15 live card game table.

(4) The department shall forward on a quarterly basis 16 the remaining balance of the fee collected under subsection 17 (2) to the treasurer of the county, or the clerk, finance 18 19 officer, or treasurer of the city or town in which the live card game table is located for deposit to the county or 20 21 municipal treasury. The local government portion of this fee 22 is statutorily appropriated to the department as provided in 23 17-7-502 for deposit to the county or municipal treasury.

Section 30. Section 23-5-321, MCA, is amended to read:
"23-5-321. bicensing Issuance of permits by local

governing bodies prohibited. (1)-Any A city, town, or county 1 2 may not issue licenses permits for the live card games 3 provided--for or live card game tables authorized in this 4 part. to-be-conducted-on-premises-which-have--been--licensed 5 for-the-sale-of-liquor-beer-food-cigarettes-or-any-other 6 consumable--products---Within--the--cities--or--towns---such 7 licenses-may-be-issued--by--the--city--or--town--council--or 8 commission--bicenses-for-games-conducted-on-premises-outside 9 the--limits--of-any-city-or-town-may-be-issued-by-the-county 10 commissioners-of-the-respective-counties--When-a-license-has 11 been-required-by-any-city;--town;--or--county;--no--game--as 12 provided-for-in-this-part-shall-be-conducted-on-anv-premises 13 which-have-been-licensed-for-the-sale-of-liquory-beery-foody 14 cigarettes7-or-any-other--consumable-product-without-such 15 license-having-first-been-obtained-16 (2)--Any-governing-body-may-charge--an--annual--license 17 fee--for--each--license--so--issued--under--this-part7-which 18 license-fee7-if-any7-shall-expire-on-June-30-of--each--year7 19 and-such-fee-shall-be-prorated+ 20 (3)--Any--license-issued-pursuant-to-this-part-shall-be 21 deemed-to-be-a-revocable-privilege;-and--no--holder--thereof 22 may-acquire-any-vested-rights-therein-or-thereunder-" Section 31. Section 23-5-312, MCA, is amended to read: 23 24 "23-5-312. Prizes not to exceed one three hundred 25 dollars. No-prize-for-any-individual-game-shall--exceed--the

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1 value--of-\$i00. A prize for an individual live card game may 2 not exceed the value of \$300. Games shall may not be 3 combined in any manner so as to increase the value of the 4 ultimate prize awarded."

5 <u>NEW SECTION.</u> Section 32. Live card game tables --6 hours of play -- restriction -- exception. Live card game 7 tables must be closed for play between the hours of 2 a.m. 8 and 8 a.m. each day. However, in the jurisdiction of a 9 local government where the table is located, the local 10 government may adopt an ordinance defining the hours of play 11 within that jurisdiction.

12 Section 33. Section 23-5-313, MCA, is amended to read: 13 *23-5-313. Rules of play to be posted -- rake-off 14 approved. Rules governing the conduct of each game shall 15 must be prominently posted within the sight of the players 16 at a live card game table on the premises of any--licensed 17 establishment--where--such--game--is--conducted a licensed operator. Such The rules shall must include notice of the 18 19 maximum percentage rake-off, if any, and shall must require 20 that the person taking the rake-off do so in an obvious 21 manner and--only--after--announcing--the--amount--of--each 22 rake-off;-which-shall-only-be-taken--at--the--conclusion--of 23 each--game--when--the-winner-of-each-individual-pot-has-been 24 determined."

25

"23-5-331. Penalty. Every A person who willfully 1 purposely or knowingly violates or who procures, aids, or 2 abets in the -- willful a violation of this part or any 3 ordinance, resolution, or regulation rule adopted pursuant 4 thereto-shall-be--deemed to this part is guilty of a 5 misdemeanor and-upon-conviction-shall-be-punished-by-a-fine 6 of-not-more-than-\$1,000-or-imprisonment-in-the--county--jail 7 for--not--more-than-3-months, or-both punishable pursuant to 8 [section 23]." 9

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NEW SECTION. Section 35. Authorized live bingo, keno,
and raffles. (1) A person may only conduct or participate in
a live bingo and keno game or raffle operated pursuant to
this part.

14 (2) This part does not apply to a game simulated on a15 video gambling machine authorized by part 6 of this chapter.

NEW SECTION. Section 36. Exempt charitable 16 organizations. An organization gualified for exemption under 17 18 26 U.S.C. 501(c)(3) and (c)(4) is exempt from the taxation 19 and license fees imposed by this part. The organization shall comply with other statutes and rules relating to the 20 21 operation of live bingo and keno or raffles. A qualified organization shall apply to the department for a cost-free 22 permit to conduct charitable live bingo and keno games or 23 raffles. 24

NEW SECTION. Section 37. Bingo and keno callers --

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Section 34. Section 23-5-331, MCA, is amended to read:

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qualifications -- license -- fee. (1) A person may not act
 as a bingo or keno caller without being licensed annually by
 the department.

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4 (2) The fee for each year in which the license is 5 effective must be commensurate with the costs associated 6 with bingo or keno caller licensing as established by 7 department rules. The fee may not be prorated.

8 (3) The department shall retain for administrative
9 purposes the license fee charged for the issuance of a bingo
10 or keno caller's license.

(4) A bingo or keno caller shall have on his person,
 and display upon request, his bingo or keno caller's license
 whenever he is working as a bingo or keno caller.

14 (5) The department may adopt rules to implement 15 temporary licensing procedures until a permanent license is 16 issued. The department may delegate the authority to issue 17 temporary licenses to local governments, including the 18 authority to assess and retain a fee for a temporary 19 license.

20 <u>NEW SECTION.</u> Section 38. Live bingo or keno permit --21 fees -- disposition of fees. (1) A person who has been 22 granted an operator's license may be granted an annual 23 permit by the department to conduct live bingo or keno games 24 on specified premises.

25 (2) The permit fee for each of the premises in which a

live bingo or keno game is conducted may not be prorated and
 must be \$500.

3 (3) The department shall retain the permit fee for4 administrative costs.

NEW SECTION. Section 39. Bingo and 5 keno aross proceeds tax -- records -- distribution -- quarterly 6 statement and payment. (1) A licensee who has received a 7 permit to operate bingo or keno games shall pay to the 8 department a tax of 3% of the gross proceeds from the 9 operation of each live bingo and keno game operated on his 10 premises. 11

(2) A licensee shall keep a record of gross proceeds
in the form the department requires. At all times during the
business hours of the licensee the records must be available
for inspection by the department.

16 (3) A licensee shall, within 15 days after the end of 17 each quarter, complete and deliver to the department a 18 statement showing the total gross proceeds for each live 19 keno or bingo game operated by him and the total amount due 20 as live bingo or keno gross proceeds tax for the preceding 21 quarter. This statement must contain any other relevant 22 information required by the department.

23 (4) The department shall forward the tax collected
24 under subsection (3) to the treasurer of the county or the
25 clerk, finance officer, or treasurer of the city or town in

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which the licensed game is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from taxes on live bingo or keno games located in unincorporated cities and towns within the county. The tax collected under subsection (3) is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury.

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8 Section 40. Section 23-5-412, MCA, is amended to read: "23-5-412. Bingo Card prices and prizes. The price for 9 an individual bingo or keno card may not exceed 50 cents. 10 11 Bingo prizes may be paid in either tangible personal property or cash7-except--that--a--prize--must--be--paid--in 12 13 tangible--personal--property--if--the--game--is--played-on-a player-operated-electronic-video-game-machine. A prize may 14 15 not exceed the value of \$100 \$300 for each individual bingo 16 award or keno card. The-price-for-an-individual-bingo--card 17 may--not-exceed-50-cents. It shall-be is unlawful to, in any 18 manner, combine any awards so as to increase the ultimate 19 value of such the award."

20 Section 41. Section 23-5-413, MCA, is amended to read: 21 "23-5-413. Raffle prizes restricted----exemption. (1) 22 Raffle prizes must-be-in-tangible-personal-property-only-and 23 not--in--money;---cash;---stocks;---bonds;---evidences---of 24 indebtedness;-or-other-intangible-personal-property-and must 25 not exceed the value of \$1,000 for each individual raffle 1 card ticket. It shall-be is unlawful to, in any manner,
2 combine any awards so as to increase the ultimate value of
3 such-award the prize awarded for each ticket.
4 (2) A separate permit must be issued by the board of

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4 5 county commissioners for each raffle conducted within its jurisdiction. The permit must be issued before the raffle б may be conducted. A person who has conducted a raffle must 7 8 submit an accounting to the board of county commissioners within 30 days following the completion of the raffle. The 9 sale of raffle tickets authorized by this part is restricted 10 11 to events and participants within the geographic confines of 12 the state. +2+(3) (a) The restrictions of subsection (1) do not 13 14 apply to a raffle conducted by a nonprofit corporation, 15 religious corporation sole, or other nonprofit organization 16 when if the corporation or organization is licensed 17 permitted by the board of county commissioners to conduct 18 the raffle. A--separate-license-shall-be-required-for-each 19 raffle-conducted; 20 (b) The nonprofit organization or corporation seeking

21 the license permission under subsection (27(3)(a) must shall 22 apply to the board of county commissioners for the license 23 permit and must provide the following information:

(i) the cost and number of raffle tickets to be sold;(ii) the charitable purposes the proceeds of the raffle

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1 are intended to benefit; and

2 (iii) the proposed prizes and their value.

3 (c) The proceeds from the sale of the raffle tickets are---to may be used only for charitable purposes or to pay 4 5 for prizes. The raffle prize must be in tangible personal property only and not in money, cash, stock, bonds, evidence 6 of indebtedness, or other intangible personal property. None 7 of the proceeds may be used for the administrative cost of 8 9 conducting the raffle.

10 fd}--The-corporation--or-organization--conducting--the 11 raffie--must--submit--an--accounting--to-the-board-of-county 12 commissioners-within-30-days-following-the-completion-of-the 13 raffler-The-person-or-persons-submitting-the-application--to 14 the-board-of-county-commissioners-along-with-the-corporation 15 or--organization--conducting-the-raffle-shall-be-responsible for--submitting--the--accounting--to--the--board--of--county 16 17 commissioners-"

Section 42. Section 23-5-414, MCA, is amended to read: 18 23-5-414. Restrictions on bingor and kenor-and-raffles 19 ---bingo-or-keno-machines-in-establishment-limit----hours-of 20 operation ---- exception. (1) In the playing of live bingo or 21 22 keno, no a person who is not physically present on the premises where the game is actually conducted shall may not 23 be allowed to participate as a player in the game. 24

(2)--Raffles--authorized--by---this---part---shall---be 25

restricted--to-events-and-participants-within-the-geographic 1 confines-of-the-state-of-Montanat 2

(3)--No--establishment--may--receive---licenses---under 3 23-5-421--for--or-make-available-for-play-more-than-15-bingo 4 or-keno-machines---A--local--governing--body--however--may 5 restrict--the-number-of-licensed-machines-available-for-play 6 in-an-establishment-to-less-than-157-but-must-allow-at-least 7 8 5-

(4)--(a)-Except-as-provided-in--subsection--(4)(b)7--an g establishment--that--receives--a--license-to-make-a-bingo-or 10 keno-machine-available-for-play-must-have-the--machine--shut 11 off--each--day--during--the--hours--provided-in-16-3-304-for 12 etesure----of----licensed----retail----alcoholic----beverage 13 14 establishments: (b)--A--local-governing-body-may-establish-any-hours-of 15 play-for-bingo-or-keno-machines-that-it-determines--propert" 16 NEW SECTION. Section 43. Hours of play ---17 restrictions -- penalty. (1) A live bingo or keno game must 18 be closed for play between the hours of 2 a.m. and 8 a.m. of 19 each day. However, in the jurisdiction of a local government 20 where the live bingo or keno game is played, the local 21 government may adopt an ordinance defining other hours of

(2) A violation of this section is a misdemeanor 24 punishable under [section 23]. 25

play within that jurisdiction.

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1 Section 44. Section 23-5-431, MCA, is amended to read: 2 "23-5-431. Penalty Criminal penalty. Every A person 3 willfully purposely or knowingly violates or who who procures, aids, or abets in the-willful a violation of this 4 5 part or any ordinance, resolution, or regulation rule 6 adopted pursuant thereto-shall-be-deemed to this part is 7 guilty of a misdemeanor and--upon--conviction--shall--be 8 punished-by-a-fine-of-not-more-than-\$1,000--or--imprisonment 9 in--the--county--jail--for--not--more-than-3-months;-or-both 10 punishable pursuant to [section 23]."

. . . .

Section 45. 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 gambling machine,
including but not limited to integrated circuit chips,
printed wired assembly, printed wired boards, printing
mechanisms, video display monitors, and metering devices,
and cabinetry.

21 (2)--"Department"-means-the-department-of-commerce:

(2) "Bingo machine" means an electronic video gambling
 machine that, upon insertion of cash, is available to play
 bingo as defined by rules of the department. The machine
 utilizes a video display and microprocessors in which, by

1	the skill of the player, by chance, or both, the player may
2	receive free games or credits that may be redeemed for cash.
3	The term does not include a slot machine or a machine that
4	directly dispenses coins, cash, tokens, or anything else of
5	value.
6	(3) "Draw poker machine" means an electronic video
7	gambling machine that, upon insertion of cash, is available
8	to play or simulate the play of the game of draw poker, as
9	defined by rules of the department. The machine utilizes a
10	video display and microprocessors in which, by the skill of
11	the player, by chance, or both, the player may receive free
12	games or credits that may be redeemed for cash. The term
13	does not include a slot machine or a machine that directly
14	dispenses coins, cash, tokens, or anything else of value.
15	(3)<u>(4)</u> "Keno machine" means an electronic video game
16	gambling machine that, upon insertion of cash, is available
17	to play or-simulate-the-play-of-the-game-of keno or-bingo as
18	providedinpart4of-this-chapter;-utilizing defined by
19	rules of the department. The machine utilizes a video
20	display and microprocessors τ in which t by the skill of the
21	player <u>,</u> or by chance, or both, the player may receive free
22	games or credits that ean may be redeemed for cash. The term
23	does not include a <u>slot machine or a</u> machine that directly
24	dispenses coins, cash, tokens, or anything else of value.
25	<pre>f4;"bicensed-establishment"-means;</pre>

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1	{a}with-respect-to-the-licensure-of-keno-machines,-an
2	establishment-that-is-licensed-to-sellalcoholicbeverages
3	for-consumption-on-the-premises-or-an-establishment-licensed
4	under-23-5-4217-and
5	(b)withrespect-to-the-licensure-of-video-draw-poker
6	machines,anestablishmentthatislicensedtosell
7	alcoholic-beverages-for-consumption-on-the-premises-
8	(5)"Licensee"meansanindividual,partnership;
9	corporation,-or-association-that-has-been-issuedalicense
10	bythedepartment-for-the-placement-and-operation-of-video
11	drawpokermachines-orkenomachinesinthelicensed
12	establishmentofthe-individual;-partnership;-corporation;
13	or-association.
14	(6)Manufacturer-distributormeansanindividual;
15	partnership;corporation;orassociationthat-assembles;
16	produces,-and-makes-or-supplies-vides-draw-poker-machines-or
17	associated-equipment-for-sale;-use;-or-distribution-inthis
18	stater
19	<pre>t7)(5) "Net machine income" means money put into a</pre>
20	video draw-poker-or-keno gambling machine minus credits paid
21	out in cash.
22	(8)
23	termis-defined-in-this-section;-that-is-owned-or-possessed
24	by-an-applicant-on-the-day-he-applies-for-a-license-forthe
25	usedmachineandthatwas-owned-or-operated-in-the-state

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1	prior-to-dune-307-1987-
2	(9}
3	poker-machine;-as-that-termisdefinedinthissection;
4	whichisownedor-possessed-by-an-applicant-on-the-day-he
5	applies-for-a-license-for-the-usedmachineandwhichwas
6	owned-or-operated-in-the-state-prior-to-February-37-1984-
7	(10) -"Videodrawpokermachine"means-an-electronic
8	videogamemachinethat7uponinsertionofcash7is
9	availabletoplay-or-simulate-the-play-of-the-game-of-draw
10	pokery-as-provided-in-this-party-utilizing-avideodisplay
11	andmicroprocessors-in-which;-by-the-skill-of-the-player-or
12	by-chanceor-boththe-player-mayreceivefreegamesor
13	creditsthatcanberedeemed-for-cash;-The-term-does-not
14	include-amachinethatdirectlydispensescoins;cash;
15	tokens;-or-anything-else-of-value;
16	(6) "Video gambling machine manufacturer-distributor"
17	means a person who assembles, produces, makes, supplies, or
18	repairs video gambling machines or associated equipment for
19	sale, use, or distribution in the state."
20	Section 46. Section 23-5-603, MCA, is amended to read:
21	"23-5-603. Video draw-poker-or-keno gambling machines
22	possession play hears-of-play restriction. (1)
23	No-person-may-place-an-electronic-videogamemachinethat
24	simulatesoroffers-a-game-of-poker;-bingo;-or-keno-in-his

25 licensed-establishment-unless-he-is-licensed-under-23-5-612-

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l	A person may only make available for public play the video
2	gambling machines specifically authorized by this part.
3	(2) The video gambling machines specifically
4	authorized by this part are bingo, keno, and draw poker
5	machines. A person may not make available for public play a
6	video gambling machine unless he has obtained an operator's
7	license. Machineslicensed Only machines for which permits
8	have been granted under 23-5-612 are-legal;-and-it-islegal
9	to-play-such-machines;-except-that-a-person-under-the-age-of
10	18-years-may-not-play-a-video-draw-poker-or-keno-machine <u>may</u>
11	be made available for play by the public on the premises of
12	a licensed operator.
13	t2;Exceptasprovidedinsubsectiont3;an
14	establishmentthatreceives-a-license-to-make-a-video-draw
15	poker-machine-available-for-play-must-have-the-machineshut
16	offeachdayduringthehoursprovided-in-16-3-304-for
17	closureoflicensedretailalcoholicbeverage
18	establishments.
19	(3) Alocal-governing-body-may-establish-any-hours-of
20	play-forwideodrawpokermachinesthatitdetermines
21	proper-
22	<pre>{4}Theprovisionsofpart-3-of-this-chapter-do-not</pre>
23	apply-to-or-prohibit-video-draw-poker-orkenomachinesor
24	the-playing-of-such-machines-"
25	Section 47. Section 23-5-611, MCA, is amended to read:

l	"23-5-611. State-license Machine permit qualifications
2	limitationsright-to-hearing. (1) (a)-A-person-who-has
3	beengranteds-license-under-16-4-401(2)-to-sell-alcoholic
4	beverages-for-consumption-on-the-premises-may-begranteda
5	licensefortheplacement-of-wideo-draw-poker-machines-in
6	his-licensed-establishment; Only a person who has been
7	granted an operator's license under [section 11] and a
8	license under 16-4-401(2) to sell alcoholic beverages for
9	consumption on the premises may be granted a permit for the
10	placement of video gambling machines in his premises.
11	(b)Bachapplicantforalicenseshallonthe
12	applicationformdisclosetothe-department-any-previous
13	experience-orinvolvementasanowneroroperatorof
14	gamblingdevices-and-establishmentsPrevious-experience-or
15	involvement-includes;
16	(i)controlling-of-gambling-devicesasanowneror
17	operator;
18	<pre>titt-employmentwith-the-owner-or-operator-of-gambling</pre>
19	devices7
20	(iii)-employment-in-establishmentswheregamblingis
21	offered-to-the-public; - and
22	tiv}-conviction-of-violation-of-state-or-local-gambling
23	taws-in-any-jurisdiction-
24	(2) An applicant for a permit shall disclose on the
25	application form to the department any information required

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1	by the department consistent with the provisions of [section
2	10].
3	<pre>f2;(3) A licensee may not have on the premises or make</pre>
4	available for play on the premises ofhislicensed
5	establishment more than five 20 machines of any combination
6	that are legal under this part. In the jurisdiction of a
7	local government where video gambling machines are played,
8	the local government may by ordinance or resolution limit
9	the number of video gambling machines to no less than five
10	per operator premises.
11	(3) A-person-denied-a-state-license-has-the-right-to-a
12	hearing-before-the-department:-The-hearing-must-be-conducted
13	inaccordancewiththeprovisionsoftheMontana
14	Administrative-Procedure-Act."
15	Section 48. Section 23-5-612, MCA, is amended to read:
16	"23-5-612. State-license Machine permits fee
17	usedkeno-machines. (1) (a) The department, upon payment of
18	the fee provided in subsection (1)(b) (2) and in conformance
19	with rules adopted under 23-5-605 this part, shall issue to
20	the licensee operator a license permit for each video draw
21	poker-or-keno gambling machine.
22	(b) The department shall charge an annual $\frac{1}{2}$
23	permit fee of \$100 for each video draw-poker-machine

1 for purposes of administering this part--except--23-5-615. 2 The remaining \$100 must be returned on a quarterly basis to 3 the local government jurisdiction in which the gambling machine is located. 4 5 (3) The license permit expires on June 30 of each 6 year, and the fee may not be prorated. 7 (2)--A--used--keno--machine--may--be---licensed---under 8 9 if--the--applicant--for--licensure--can--establish--to---the 10 satisfaction---of--the--department--that--on--the--date--of 11 application;-he-owns-or-possesses-a-machine-that--was--owned 12 or--operated--in-the-state-prior-to-June-307-1987--A-license 13 issued-under-this-subsection-expires--for--all--purposes--no 14 later-than-dune-307-1989;" 15 Section 49. Section 23-5-631, MCA, is amended to read: 16 "23-5-631. Examination and approval of new video draw 17 poker gambling machines and associated equipment -- fee. (1) 18 The department shall examine and may approve a new video 19 draw---poker---machines gambling machine and associated 20 equipment which is are manufactured, sold, or distributed 21 for use in this the state before the video draw-poker 22 gambling machine or associated equipment is sold, played, or

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

23

used.

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and-\$100-for-each--keno gambling machine. The department

shall retain \$100 of the total license permit fee collected

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until the <u>video gambling machine</u> manufacturer-distributor of
 the machine or associated equipment is licensed as required
 in 23-5-625.

4 (3) All video gambling machines approved by the 5 department of commerce prior to [the effective date of this 6 act] must be considered approved under this part.

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

15 (5) The department may inspect and test and approve, disapprove, or place a condition upon a video gambling machine prior to its distribution and placement for play by the public."

19 <u>NEW SECTION.</u> Section 50. Video gambling machine 20 specifications -- rules. The department shall adopt rules 21 describing the video gambling machines authorized by this 22 part and stating the specifications for video gambling 23 machines authorized by this part.

Section 51. Section 23-5-616, MCA, is amended to read:
"23-5-616. Removal of machine from public access. If a

machine fails to meet the specifications and requirements of 2 23-5-6067-23-5-6077-or-23-5-600 this part or any rule of the 3 department at any time after its initial licensure permit 4 has been issued, the licensee operator shall immediately 5 remove the machine from public access until it meets all 6 requirements."

7 Section 52. Section 23-5-625, MCA, is amended to read: *23-5-625. Manufacturer-distributor---of---video--draw R 9 poker----machines Video gambling machine 10 manufacturer-distributor -- license -- fees. (1) It is 11 unlawful for any person to assemble, produce, manufacture, 12 selfy--or--distribute supply, or repair any video draw-poker 13 gambling machine or associated equipment for use or play in 14 this the state without having first been issued a video 15 gambling machine manufacturer-distributor's license by the 16 department.

17 (2) The department shall charge an annual license fee
18 of \$1,000 for the issuance or renewal of a <u>video gambling</u>
19 <u>machine manufacturer-distributor's license.</u>

(3) In addition to other license fees, the department
may charge the applicant a one-time <u>video gambling machine</u>
manufacturer-distributor's license application processing
fee. The processing fee may not exceed the department's
actual costs for processing an application.

25 (4) All <u>video gambling machine</u>

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manufacturer-distributor's licenses expire on June 30 of
 each year, and the license fee may not be prorated.

3 (5) The department shall retain the license and 4 processing fees collected for purposes of administering this 5 part, except-23-5-615 unless otherwise provided."

Section 53. Section 23-5-610, MCA, is amended to read:
"23-5-610. Video draw-poker-and-keno gambling machine
net income tax -- records -- distribution -- quarterly
statement and payment. (1) Each A licensee shall pay to the
department a video draw-poker-and-keno gambling machine tax
of 15% of net machine income from each video draw-poker-and
keno gambling machine licensed under this part.

13 (2) Each <u>A</u> licensee shall keep a record of net machine 14 income in such form as the department may require. The 15 records must at all times during the business hours of the 16 licensee be subject to inspection by the department₇-its 17 agents₇-or-employees.

18 (3) Each A licensee shall, within 15 days after the 19 end of each quarter, complete and deliver to the department a statement showing the total net machine income from each 20 21 video draw-poker-and-keno gambling machine licensed to him, 22 together with the total amount due the state as video draw 23 poker--and--keno gambling machine net income tax for the 24 preceding quarter. The statement must contain such other relevant information as the department may require. 25

1 (4) (a) The department must--deposit shall forward 2 one-third of the tax collected under subsection (3) in to 3 the general fund.

4 (b) The department must shall forward the remaining 5 two-thirds of the tax collected under subsection (3) to the 6 treasurer of the incorporated county or the clerk, finance 7 officer, or treasurer of the city or town in which the 8 licensed machine is located, for deposit to the county or 9 municipal treasury. Counties are not entitled to proceeds 10 from taxes on income from video draw-poker-and-keno gambling 11 machines located in incorporated cities and towns. The 12 two-thirds local government portion of tax collected under 13 subsection (3) is statutorily appropriated to the department 14 as provided in 17-7-502 for deposit to the county or 15 municipal treasury."

Section 54. Section 23-5-608, MCA, is amended to read:
"23-5-608. Limitation on amount of money played and
value of prizes -- payment of credits in cash. (1) A video
draw-poker-or-keno gambling machine may not allow more than
\$2 to be played on a game or award free games or credits in
excess of the value-of-\$100-per-hand following amounts:
(a) \$100 a hand or \$800 a game for a video draw poker

23 machine; and

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- (b) \$800 a game for a video keno or bingo machine.
- 25 (2) Bach A licensee shall pay in cash all credits owed

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1 to a player as shown on a valid ticket voucher provided-in 2 23-5-606f4+ftk+."

3 Section 55. Section 23-5-607, MCA, is amended to read: *23-5-607. Expected payback -- verification. The 4 5 department shall prescribe the expected payback value of one 6 credit played awarded to be at least 80% of the value of a 7 one credit played. Each video draw-poker-or--keno gambling 8 machine must have an electronic accounting device that the 9 department may use to verify the winning percentage. The department--may--not-publish-or-otherwise-disseminate-income 10 11 figures--and--other--statistics--obtained--in--the---payback 12 verification--process--or--contained-in-payback-verification 13 reports-in-a--manner--that--allows--or--helps--a--person--to 14 identify--a--particular--machine--or--to--match-a-particular 15 machine-with-a-particular-income-or-statistic."

16 <u>NEW SECTION.</u> Section 56. Video gambling machines --17 hours of play -- penalty. (1) A video gambling machine may 18 not be played between the hours of 2 a.m. and 8 a.m. each 19 day. However, in the jurisdiction of a local government 20 where the video gambling machine is played, the local 21 government may adopt an ordinance defining the hours of play 22 within that jurisdiction.

23 (2) A violation of this section is a misdemeanor24 punishable under [section 23].

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"23-5-613. Investigations-and--violations Violations. 1 2 (1)---The---department---or---duly---authorized---department representatives-shall-make-necessary-investigations;-suspend 3 or-revoke-state-licenses-for-violations-of-this-party-except 4 23-5-6157-and-hold-hearings-on-such-matters--A--license--may 5 be--suspended-prior-to-a-hearing-upon-a-finding-of-danger-to 6 7 public-health-and-welfare-but-may-not-be-revoked--until--the 8 hearing-is-completed. 9 +2+--A Unless otherwise provided in this part, a 10 violation of this part,--except--23-5-6157 or a rule 11 promulgated under--23-5-605 by the department is a criminal offenser-and-a-fine-not-to--exceed--510,000--for--the--first 12 13 violation--and--\$157000--for--a-subsequent-violation-must-be 14 imposed misdemeanor punishable under [section 23]. +3+--If-a-video--draw--poker--machine--is--operated--in 15 16 violation--of--this--party-except-23-5-615,-it-may-be-seized 17 under-23-5-121-and-the-provisions-of-23-5-122-apply: 18 (4)--Employees-of-the--department--or--duly--authorized 19 department--representatives-designated-as-enforcement-agents 20 may-investigate-the-background-of-license-applicants-to--the 21 extent-judged-necessary-by-the-departmenty-but-no-person-may be--investigated--prior--to-his-submission-of-an-application 22 23 for-a-licenser 24 (5)--(a)-Pindings-of-suspected-illegal-activity-must-be reported-to-the-appropriate-law-enforcement-agency-25

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Section 57. Section 23-5-613, MCA, is amended to read:

(b)--The-clerk-of-the-court-shall;-upon-final--judgment of--conviction--of--a-licensee;-report-to-the-department-the name-of-the-licensee-convicted-of-violating-a-local-gambling ordinance;

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5 (c)--On-receipt-of--such--report,--the--department--may
6 commence--proceedings--to--revoke--or-suspend-the-licensee+s
7 video-draw-poker-license.
8 (6)--Any-peace-officer--of--this--state--may--arrest--a
9 person--for--tampering--with--a--video--draw--poker-machine,

10 attempting-or-conspiring-to-manipulate-the--outcome--or--the 11 payoff--of--a--video-draw-poker-machine--or-manipulating-the 12 outcome-or-payoff-of-a-video-draw-poker-machine-by--physical 13 tampering--or-other-interference-with-the-proper-functioning 14 of-the-machine-"

NEW SECTION. Section 58. Tampering with or manipulating video gambling machine -- penalty. (1) It is a felony to manipulate or attempt or conspire to manipulate the outcome or payoff of a video gambling machine by physical tampering or other interference with the proper functioning of the machine.

(2) A violation of this section is a felony and mustbe punished in accordance with [section 24].

23 Section 59. Section 23-5-503, MCA, is amended to read:
24 "23-5-503. Rules. (1) The card used for recording the
25 pool and upon which the squares or spaces appear shall

clearly state <u>indicate</u> in advance of the sale of any chances
 the number of chances to be sold in that specific pool, the
 name of the event, the consideration to be paid for each
 chance, and the total amount to be paid to the winners.

(2) No A chance to participate in a sports pool may 5 not be sold other than upon the premises in which the sports 6 7 pool is conducted. No An individual chance to participate in 8 a sports pool shall may not be sold for a consideration in 9 excess of \$1, and the total amount to be paid to the winners 10 of any individual sports pool shall may not exceed the value of \$100. The winner of any sports pool shall receive a 100% 11 12 payout of the value of the sports pool."

13 Section 60. Section 23-5-509, MCA, is amended to read: "23-5-509. Penalty. Every A person who willfully 14 purposely or knowingly violates or who procures, aids, or 15 16 abets in the--willful a violation of this part shall-be 17 deemed is guilty of a misdemeanor and-upon-conviction--shall 18 be---punished---by--a--fine--of--not--more--than--\$17000--or 19 imprisonment-in-the-county-jail-for-not-more-than-3--months, 20 er-both punishable pursuant to [section 23]."

21 Section 61. Section 23-5-1101, MCA, is amended to 22 read:

23 "23-5-1101. Definition. As used in this part,
24 "Calcutta pool" means a form of auction pool in-which
25 persons-bid-or-wager-money,-with-winnings-awarded--based--on

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1 the--outcome--of--an--eventy--except--that conducted by an organization qualified for exemption under 26 U.S.C. 2 501(c)(3) or (c)(4) and authorized by the department. The 3 Calcutta pool must be an auction pool in which: 4 5 (1) a person's wager is equal to his bid; (2) the organization conducting the pool has no direct 6 7 interest in the pool; 8 (3) the rules of the pool are publicly posted; 9 (4) no more than one wager for each competitor is 10 allowed; 11 (5) at least 50% of the total pool is paid out in 12 prizes; (6) persons may not bid or wager money on 13 any 14 elementary school or high school sports event; and 15 (7) the underlying event has more than two entrants." Section 62. Section 23-5-1105, MCA, is amended to 16 17 read: "23-5-1105. Penalty. Any A person who violates a 18 provision of this part is guilty of a misdemeanor and--upon 19 20 conviction-shall-be-fined-not-more-than-91-000-or-imprisoned 21 in--the--county--jail--for-a-term-not-to-exceed-3-months;-or 22 both punishable pursuant to [section 23]." Section 63. Section 17-7-502, MCA, is amended to read: 23 "17-7-502. Statutory appropriations -- definition --24 requisites for validity. (1) A statutory appropriation is an 25

appropriation made by permanent law that authorizes spending
 by a state agency without the need for a biennial
 legislative appropriation or budget amendment.

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4 (2) Except as provided in subsection (4), to be 5 effective, a statutory appropriation must comply with both 6 of the following provisions:

7 (a) The law containing the statutory authority must be
8 listed in subsection (3).

9 (b) The law or portion of the law making a statutory 10 appropriation must specifically state that a statutory 11 appropriation is made as provided in this section.

(3) The following laws are the only laws containing 12 appropriations: 2-9-202; 2-17-105; 2-18-812; statutory 13 13-37-304; 10-3-312; 10-3-314; 10-4-301; 14 10-3-203; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 15-25-123: 15 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 16 19-10-205; 19-9-1007; 19-8-504; 19-9-702; 17 17-5-804: 19-11-513; 19-11-606; 19-10-305; 19-10-506; 19-11-512; 18 20-8-111; 19-12-301; 19-13-604: 20-4-109: 20-6-406; 19 23-5-610; [section 29]; [section 39]; 23-5-1027; 33-31-212; 20 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 33-31-401; 21 80-2-103; 75-1-1101; 75-7-305; 76-12-123; 67-3-205; 22 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 23 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 24 1985: and section 1, Chapter 454, Laws of 1987. 25

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[this act].

1 (4) There is a statutory appropriation to pay the 2 principal, interest, premiums, and costs of issuing, paying, 3 and securing all bonds, notes, or other obligations, as due, 4 that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements 5 authorized by the laws of Montana to pay the state 6 treasurer, for deposit in accordance with 17-2-101 through 7 8 17-2-107, as determined by the state treasurer, an amount 9 sufficient to pay the principal and interest as due on the 10 bonds or notes have statutory appropriation authority for 11 such payments. (In subsection (3): pursuant to sec. 15, Ch. 607, L. 1987, the inclusion of 15-65-121 terminates June 30, 12 1989: pursuant to sec. 10, Ch. 664, L. 1987, the inclusion 13 of 39-71-2504 terminates June 30, 1991; and pursuant to sec. 14 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L. 15 16 1987, terminates July 1, 1988.)"

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17 <u>NEW SECTION.</u> Section 64. Reorganization procedure. 18 The provisions of sections 2-15-131 through 2-15-137 govern 19 the transfer of the various functions contained in [this 20 act] from the department of commerce to the department of 21 justice.

22 <u>NEW SECTION.</u> Section 65. Implementation. (1) The 23 governor shall by executive order implement the provisions 24 of [this act].

25 (2) The governor may by executive order assign to the

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department of justice in a manner consistent with [this act] functions allocated to the department of commerce by the 51st legislature relating to the implementation of Title 23, chapter 5, parts 1 through 6, that are not transferred by

NEW SECTION. Section 66. Repealer. Sections 23-5-105 6 7 through 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124 through 23-5-127, 23-5-132 through 23-5-134, 23-5-141 8 through 23-5-144, 23-5-201 through 23-5-211, 23-5-301 9 through 23-5-303, 23-5-314 through 23-5-316, 23-5-322, 10 23-5-323, 23-5-332, 23-5-401 through 23-5-403, 23-5-411, 11 through 23-5-418, 23-5-421 through 23-5-423, 12 23-5-415 13 23-5-504 through 23-5-508, 23-5-510, 23-5-511, 23-5-601, 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618, 14 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103, 15 23-5-1104, MCA, are repealed. 16

17 <u>NEW SECTION.</u> Section 67. Extension of authority. Any 18 existing authority to make rules on the subject of the 19 provisions of [this act] is extended to the provisions of 20 [this act].

21 <u>NEW SECTION.</u> Section 68. Codification instruction. 22 (1) [Sections 1, 2, 4 through 8, 10 through 12, 16, 18 23 through 20, and 23 through 25] are intended to be codified 24 as an integral part of Title 23, chapter 5, part 1, and the 25 provisions of Title 23, chapter 5, part 1, apply to

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[sections 1, 2, 4 through 8, 10 through 12, 16, 18 through
 20, and 23 through 25].

3 (2) [Sections 27 through 29 and 32] are intended to be 4 codified as an integral part of Title 23, chapter 5, part 3, 5 and the provisions of Title 23, chapter 5, part 3, apply to 6 [sections 27 through 29 and 32].

7 (3) [Sections 35 through 39 and 43] are intended to be
8 codified as an integral part of Title 23, chapter 5, part 4,
9 and the provisions of Title 23, chapter 5, part 4, apply to
10 [sections 35 through 39 and 43].

11 (4) [Sections 50, 56, and 58] are intended to be 12 codified as an integral part of Title 23, chapter 5, part 6, 13 and the provisions of Title 23, chapter 5, part 6, apply to 14 [sections 50, 56, and 58].

15 (5) The code commissioner shall recodify the
16 provisions of Title 23, chapter 5, part 11, as an integral
17 part of Title 23, chapter 5, part 2.

18 <u>NEW SECTION.</u> Section 69. Severability. If a part of 19 [this act] is invalid, all valid parts that are severable 20 from the invalid part remain in effect. If a part of [this 21 act] is invalid in one or more of its applications, the part 22 remains in effect in all valid applications that are 23 severable from the invalid applications.

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STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for <u>SB431</u>, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the public gambling laws of Montana; providing for licensure and regulation of gambling activities by the Department of Justice; and providing for statutory appropriation. ASSUMPTIONS:

- 1. The Department of Justice will be given authority to regulate all currently legal forms of gambling in Montana except the state lottery and horse racing. This includes:
 - video poker, video keno, and video bingo which are currently regulated in the Department of Commerce with contractual help from the Department of Revenue for investigations.
 - live keno, bingo and live card games including poker which are currently regulated by local governments.
- 2. Programs and staff related to video gambling located at the Department of Commerce will be transferred to the Department of Justice.
- 3. Programs and staff related to investigations for video gambling purposes will be transferred from the Department of Revenue to the Department of Justice. Investigators will be upgraded from grade 14 to grade 16.
- 4. The Department of Justice will be given authority to create training programs for licensees and law enforcement personnel. In addition, programs for addicted and problem gamblers will be created.
- 5. Assumptions included here only address currently legal forms of gambling. This estimate does not include the legalization of "21", punchboards, pulltabs or any other forms of gambling which might be legalized by the legislature.
- 6. Estimates of current local government income and numbers of live poker, live keno, live bingo, card dealers and bingo callers derived from local government survey conducted in spring of 1987.
- 7. Current funding level of the Department of Commerce is the governor's recommended budget less the modification for a Gaming Commission.
- 8. Funds in current level Department of Commerce operating expense for contracting investigations in the Department of Revenue have been shown in the proposed level as Personal Services in the Department of Justice.
- 9. Department of Revenue expenditures will decrease by \$186,777 and \$185,864 for Personal Service in FY90 and FY91 respectively and \$58,588 and \$58,301 in Operating Expenses in FY90 and FY91 respectively.

DATE 2/22/89

RAY SHACKLEFORD, BUDGET DIRECTOR OFFICE OF BUDGET AND PROGRAM PLANNING

DATE DELWYN GAGE, PRIMARY SPONSOR

Fiscal Note for <u>SB431, as introduced</u> **SB 43**/ Fiscal Note Request, <u>SB431 as introduced</u> Form BD-15 Page 2

FISCAL IMPACT:		FY90				
Revenue:	Current	Proposed		Current	Proposed	
License Fees:	Law	Law	Difference	Law	Law	Difference
Machines	\$ 1,500,000	\$ 2,000,000	\$ 500,000	\$ 1,550,000	\$ 2,100,000	\$ 550,000
Live Card Games	-0-	75,000	75,000	-0-	75,000	75,000
Live Bingo/Keno	-0-	190,000	190,000	-0-	190,000	190,000
Dealers/Callers	37,328	75,000	37,672	37,328	75,000	37,672
<u>Taxes:</u>						
Machines	13,000,000	13,000,000	-0-	13,500,000	13,500,000	-0-
Live Card Games	70,000	387,500	317,500	70,000	387,500	317,500
Live Bingo/Keno	28,000	1,140,000	1,112,000	28,000	1,140,000	1,112,000
Penalties	75,000	110,000	35,000	75,000	110,000	35,000
Total	\$14,710,328	\$16,977,500	\$2,267,172	\$15,260,328	\$17,577,500	\$2,317,172
Fund Information:						
General Fund	\$ 4,290,000	\$ 4,290,000	\$ -0-	\$ 4,455,000	\$ 4,555,000	\$ -0-
Special Revenue Fund	1,075,000	1,450,000	375,000	1,075,000	1,500,000	425,000
Local Governments	9,345,328	11,237,500	1,892,172	9,730,328	11,622,500	1,892,172
Total	\$14,710,328	\$16,977,500	\$2,267,172	\$15,260,328	\$17,577,500	\$2,317,172

Local government revenues shown under current level above include those collected at the local level under current law. These will be collected by the state and passed back to the local government under the proposed law. Expenditures:

Department of Commerce											
Personal Services	\$	305,660	\$	-0-	(\$305,660)	\$	306,165	\$ -0-	(\$306,165)
Operating Expenses		469,082		-0-	(469,082)		467,335	-0-	(467,335)
Equipment		30,467		-0-	(30,467)		13,895	 -0-	(13,895)
Total	\$	805,209	\$	-0-	(\$805,209	\$	787,395	\$ -0-	(\$787,395)
Department of Justice											
Personal Services	\$	-0-	\$	898,800	\$	898,800	\$	-0-	\$ 899,305	\$	899,305
Operating Expenses		-0-		262,023		262,023		-0-	260,276		260,276
Equipment		-0-		111,467		111,467		-0-	 51,895		51,895
Total	\$	-0-	\$	1,272,290	\$1	,272,290	\$	-0-	\$ 1,211,476	\$1	,211,476
Total Expenditure Impact:	\$	805,209	\$	1,272,290	\$	467,081	\$	787,395	\$ 1,211,476	\$	424,081
EFFECT ON COUNTY OR OTHER LOCAL REVENUE EXPENDITURES:											

Under the proposal, revenues of \$11,237,500 in FY90 and \$11,622,500 in FY91 will be collected by the Department of Justice and returned to local government. It is estimated that local government revenues will <u>increase</u> \$1,892,172 each year. Local government expenses should decrease each year because all gambling licensing and tax collection will be administered by the state.

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Fiscal Note Request, <u>SB431 as introduced</u> Form BD-15 Page 3

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

The wording in section 55 prescribing the expected payback value of a video gambling machine is statistically inapplicable. A suggested amendment is "... the expected value of the payback of one credit played to be at least 80% of the value of the credit."

SB 431
51st Legislature

APPROVED BY COMMITTEE On Judiciary

1	SENATE BILL NO. 431	1 AND 23-5-1104, MCA."
2	INTRODUCED BY GAGE, HARPER, B. BROWN, MAZUREK,	2
3	ADDY, STRIZICH, MERCER, CRIPPEN, HANNAH,	3 STATEMENT OF INTENT
4	HARP, VAN VALKENBURG	4 This bill requires a statement of intent because
5	BY REQUEST OF THE DEPARTMENT OF JUSTICE	5 [section 7] authorizes the department of justice to adopt
6		6 administrative rules to implement {this act}. {This act} is
7	A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE	7 intended to provide uniform statewide regulation of gambling
8	PUBLIC GAMBLING LAWS OF MONTANA; PROVIDING FOR LICENSURE AND	8 in Montana under the supervision of the attorney general.
9	REGULATION OF GAMBLING ACTIVITIES BY THE DEPARTMENT OF	9 It is the intent of the legislature that the department
10	JUSTICE; PROVIDINGPORSTATUTORYAPPROPRIATION; AMENDING	10 of justice adopt necessary rules to implement uniform
11	SECTIONS 17-7-502, 23-5-101 THROUGH 23-5-104, 23-5-108,	11 statewide regulation of gambling in Montana consistent with
12	23-5-123, 23-5-131, 23-5-135, 23-5-311 THROUGH 23-5-313,	12 the purposes and policies set forth in [section 1] of this
1 3	23-5-321, 23-5-331, 23-5-412 THROUGH 23-5-414, 23-5-431,	13 bill.
14	23-5-503, 23-5-509, 23-5-602, 23-5-603, 23-5-607, 23-5-608,	14
15	23-5-610 THROUGH 23-5-613, 23-5-616, 23-5-625, 23-5-631,	15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16	23-5-1101, AND 23-5-1105, MCA; AND REPEALING SECTIONS	16 <u>NEW SECTION.</u> Section 1. Public policy of state
17	23-5-105 THROUGH 23-5-107, 23-5-109, 23-5-121, 23-5-122,	17 concerning gambling. (1) The legislature finds that for the
18	23-5-124 THROUGH 23-5-127, 23-5-132 THROUGH 23-5-134,	18 purpose of ensuring the proper gambling environment in this
19	23-5-141 THROUGH 23-5-144, 23-5-201 THROUGH 23-5-211,	19 state it is necessary and desirable to adopt a public policy
20	23-5-301 THROUGH 23-5-303, 23-5-314 THROUGH 23-5-316,	20 regarding public gambling activities in Montana. The
21	23-5-322, 23-5-323, 23-5-332, 23-5-401 THROUGH 23-5-403,	21 legislature therefore declares it is necessary to:
22	23-5-411, 23-5-415 THROUGH 23-5-418, 23-5-421 THROUGH	22 (a) create and maintain a uniform regulatory climate
23	23-5-423, 23-5-504 THROUGH 23-5-508, 23-5-510, 23-5-511,	23 that assures players, owners, tourists, citizens, and others
24	23-5-601, 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617,	24 that the gambling industry in this state is fair and is not
25	23-5-618, 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103,	25 influenced by corrupt persons, organizations, or practices;



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SECOND READING -

(b) protect legal public gambling activities from
 unscrupulous players and vendors and detrimental influences;
 (c) protect the public from unscrupulous proprietors
 and operators of gambling establishments, games, and
 devices;

6 (d) protect the state and local governments from those
7 who would conduct illegal gambling activities that deprive
8 those governments of their tax revenues;

9 (e) protect the health, safety, and welfare of all
10 citizens of this state, including those who do not gamble,
11 by regulating gambling activities; and

(f) promote and fund programs necessary to provide 12 assistance to those who are adversely affected by legalized 13 gambling, including compulsive gamblers and their families. 14 (2) The legislature adopts the policy that an 15 applicant for a license or permit or other department 16 approval under parts 1 through 6 of this chapter does not 17 have a right to the issuance of a license or permit or the 18 granting of the approval sought. The issuance of a license 19 or permit issued or other department approval granted 20 pursuant to the provisions of parts 1 through 6 of this 21 chapter is a revocable privilege. A holder does not acquire 22 a vested right in the license or permit issued or other 23 department approval granted. A license or permit issued 24 under parts 1 through 6 of this chapter may not be sold, 25

1 assigned, leased, or transferred.

2 (3) Revenue to fund the expense of administration and 3 control of gambling as regulated by parts 1 through 6 of 4 this chapter must be derived solely from fees, taxes, and 5 penalties on gambling activities, except the gambling 6 activities of the Montana state lottery and the parimutuel 7 industry.

NEW SECTION. Section 2. General application. This
 chapter applies only to public gambling activities within
 the state of Montana.

Section 3. Section 23-5-101, MCA, is amended to read: 11 "23-5-101. Definitions. Unless the context requires 12 otherwise, the following definitions apply to parts 1 13 through 6 of this chapter: 14 (1) A-slot-machine-is-defined-as-a-machine-operated-by 15 inserting--a--coing--tokeng--chipg--trade--checkg--or--paper 16 17 currency-therein-by-the-player-and-from-the-play-of-which-he obtains-or-may-obtain-money,-checks,-chips,-tokens,-or-paper 18 currency--redeemable--in-money--Merchandise-vending-machines 19 where the element -- of -- chance -- does -- not -- enter -- into -- their 20 operation--are--not--within--the--provisions--of--this-part; 21 22 "Applicant" means a person who has applied for a license or 23 permit issued by the department pursuant to parts 1 through 24 6 of this chapter. (2) "Application" means a written request for a 25

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1	license or permit issued by the department. The department
2	shall adopt rules describing the forms and information
3	required for issuance of a license.
4	(3) "Authorized equipment" means, with respect to live
5	keno or bingo, the receptacle and numbered objects drawn
6	from it, the master board upon which such objects are placed
7	as drawn, the cards or sheets bearing numbers or other
8	designations to be covered and the objects used to cover
9	them, the boards or signs, however operated, used to
10	announce or display the numbers or designations as they are
11	drawn, public address system, and all other articles
12	essential to the operation, conduct, and playing of live
13	keno or bingo.
14	(4) "Bingo" means a game of chance played for prizes
15	with a card bearing a printed design of 5 columns of 5
16	squares each, 25 squares in all. The letters B-I-N-G-O must
17	appear above the design, with each letter above one of the
18	columns. No more than 75 numbers may be used. One number
19	must appear in each square;-except-for-the-center-square
20	which-is-considered-a-free-play. Numbers and letters are
21	drawn from a receptacle and announced by a bingo caller
22	using authorized equipment, and the game is won by the
23	person who first covers a previously designated arrangement
24	of numbers on the bingo card.
25	(5) "Bingo caller" means a person licensed by the
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1	department to work as a live bingo caller who, using
2	<u>authorized</u> equipment, announces the order of the objects
3	drawn in live bingo.
4	(6) "Card game table" or "table" means a live card
5	game table authorized by permit and made available to the
б	public on the premises of a licensed gambling operator.
7	(7) "Dealer" means a person with a dealer's license
8	issued under part 3 of this chapter.
9	(8) "Department" means the department of justice.
10	(9) "Distributor" means a person_who:
11	(a) purchases or obtains from another person equipment
12	of any kind for use in gambling activities; and
13	(b) sells, leases, or otherwise furnishes the
14	equipment to another person for use in public.
15	(10) "Gambling" or "gambling activity" means risking
16	money, credit, deposit, check, property, or any other thing
17	of value for a gain that is contingent in whole or in part
18	upon lot, chance, or the operation of a gambling device or
19	gambling enterprise.
20	(11) "Gambling device" means a mechanical,
21	electromechanical, or electronic device, machine, slot
22	machine, instrument, apparatus, contrivance, scheme, or
23	SYSTEM USED OR INTENDED FOR USE IN ANY GAMBLING ACTIVITY.
24	(12) "Gambling enterprise" means an activity, scheme,
25	or agreement or an attempted activity, scheme, or agreement

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1	to provide gambling or a gambling device to the public.
2	(13) "GROSS PROCEEDS" MEANS GROSS REVENUE RECEIVED LESS
3	PRIZES PAID OUT.
4	(13) (14) "Illegal gambling device" means a gambling
5	device not specifically authorized by statute or by the
6	rules of the department.
7	<pre>tid+(15) "Illegal gambling enterprise" means a gambling</pre>
8	enterprise that violates a statute or a rule of the
9	department.
10	$\frac{115}{16}$ "Keno" means a game of chance in which prizes
11	are awarded using a card with 8 horizontal rows and 10
12	columns on which a player may pick up to 10 numbers. A keno
13	caller, using authorized equipment, shall select at random
14	20 numbers out of numbers between 1 and 80, inclusive.
15	$\frac{1}{10}$ (17) "Keno caller" means a person licensed by the
16	department to work as a live keno caller who, using
1 7	authorized equipment, announces the order of the numbers
18	drawn in live keno.
19	<pre>ti7;(18) "License" means an operator's, dealer's,</pre>
20	caller's or manufacturer-distributor's license issued to a
21	person by the department.
22	$\frac{1}{10}$ [19] "Licensee" means a person who has received a
23	license from the department.
24	(19) "Live card game", "card game", or "game" means
25	a card game that is played in public between persons on the
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1	premises of a licensed gambling operator.
2	<pre>f20;(21) "Lottery" or "gift enterprise" means a scheme,</pre>
3	by whatever name known, for the disposal or distribution of
4	property by chance among persons who have paid or promised
5	to pay valuable consideration for the chance of obtaining
6	the property or a portion of it or for a share or interest
7	in the property upon an agreement, understanding, or
8	expectation that it is to be distributed or disposed of by
9	lot or chance. However, "gift enterprise" does not mean:
10	(a) lotteries authorized under part 10 of this
11	chapter; or
12	(b) cash or merchandise attendance prizes or premiums
13	that the county fair commissioners of agricultural fairs and
14	rodeo associations may give away at public drawings at fairs
15	and rodeos.
16	(21) (22) "Manufacturer" means a person who assembles
17	from raw materials or subparts a completed piece of
18	equipment or pieces of equipment of any kind to be used as a
19	gambling device.
20	<pre>{22}(23) "Operator" means a person who purchases,</pre>
21	receives, or acquires, by lease or otherwise, and operates
22	or controls for use in public, a gambling device or gambling
23	enterprise authorized under parts 1 through 6 of this
24	chapter.
25	(23) (24) "Permit" means approval from the department to

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1	make available for public play a gambling device or gambling
2	enterprise approved by the department pursuant to parts 1
3	through 6 of this chapter.
4	(2) <u>(24)(25)</u> Inaddition-to-their-ordinary-meaning ₇ -the
5	words-"person" "Person" or "persons";-as-used-in-thispart;
6	include means both natural and artificial persons and all
7	partnerships, corporations, associations, clubs, fraternal
B	orders, and societies, including religious , fraternal, and
9	charitable organizations.
10	[25] (26) "Premises" means the physical building or
11	property within or upon which a licensed gambling activity
12	occurs, as stated on an operator's license application and
13	approved by the department.
L4	<u>{26}(27) "Public" means:</u>
.5	(a) a place, building, or conveyance to which the
L6	public has access or may be permitted to have access; or
17	(b) a place of public resort, including but not
8	limited to a facility owned, managed, or operated by a
19	partnership, corporation, association, club, fraternal
20	order, or society, including a religious, fraternal, or
21	charitable organization.
22	<u>+27+(28) "Raffle" means a gift enterprise in which each</u>
23	participant buys a chance or chances to win a prize.
24	(28)(29) "Slot machine" means a mechanical, electrical,
25	electronic, or other gambling device, contrivance, or
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1	machine that, upon insertion of a coin, currency, token,
2	credit card, or similar object or upon payment of any
3	valuable consideration, is available to play or operate, the
4	play or operation of which, whether by reason of the skill
5	of the operator or application of the element of chance, or
6	both, may deliver or entitle the person playing or operating
7	the gambling device to receive cash, premiums, merchandise,
8	tokens, or anything of value, whether the payoff is made
9	automatically from the machine or in any other manner. This
10	definition does not apply to video gambling machines
11	authorized under part 6 of this chapter.
12	(29) (30) "Video gambling machine" is a gambling device
13	specifically authorized by part 6 of this chapter and the
14	rules of the department."
15	NEW SECTION. Section 4. Authority of local
16	governments to regulate gambling. (1) A local government may
17	not license, regulate, or otherwise limit a form of gambling
18	authorized by parts 1 through 6 of this chapter OR ASSESS OR
19	CHARGE ANY FEES OR TAXES unless specifically authorized by
20	statute.
21	(2) An incorporated city or town may enact an
22	ordinance or resolution defining ZONING certain areas within
23	its incorporated limits in which gambling is prohibited.
24	(3) A county may enact a resolution defining ZONING
25	certain areas in the county, not within an incorporated city

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1 or town, in which gambling is prohibited.

2 (4) A county or incorporated city or town may not
3 restrict the number of licenses that the department may
4 issue.

5 NEW SECTION. Section 5. Department criminal as 6 justice agency. The department is a criminal justice agency. 7 Designated agents of the department are granted peace officer status to investigate, regulate, and control all 8 9 legal and illegal gambling activities in this state 10 regulated by parts 1 through 6 of this chapter and the rules 11 of the department.

NEW SECTION. Section 6. Department employees -activities prohibited. An employee of the department <u>OR ANY</u> <u>OTHER PERSON</u> directly involved with the prosecution, investigation, regulation, or licensing of gambling may not: (1) serve as an officer or manager of a corporation or organization that conducts a gambling activity;

18 (2) receive or share in, directly or indirectly, any 19 profit of a gambling activity regulated by the department; 20 (3) have a beneficial or pecuniary interest in a 21 contract for the manufacture or sale of a gambling device, 22 the conduct of a gambling activity, or the provision of 23 independent consultant services in connection with a 24 gambling activity.

25 NEW SECTION. Section 7. Powers and duties of

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department -- licensing. (1) The department shall administer

2 the provisions of parts 1 through 6 of this chapter.

3 (2) The department shall adopt rules to administer and
4 implement parts 1 through 6 of this chapter.

5 (3) The department shall provide licensing procedures,
6 prescribe necessary application forms, and grant or deny
7 license applications.

8 (4) The department shall prescribe recordkeeping
9 requirements for licensees, provide a procedure for
10 inspection of records, provide a method for collection of
11 taxes, and establish penalties for the delinquent reporting
12 and payment of required taxes.

13 (5) The department may suspend, revoke, deny, or place
14 a condition on a license issued under parts 1 through 6 of
15 this chapter.

16 (6) The department may not make public or otherwise
17 disclose information obtained in the <u>APPLICATION OR</u> tax
18 reporting processes, except for general statistical
19 reporting or studies.

20 <u>NEW SECTION.</u> Section 8. Injunction and other 21 remedies. (1) If it appears to the department that a person 22 has engaged in or is about to engage in an act or practice 23 constituting a violation of a provision of parts 1 through 6 24 of this chapter or a rule or order of the department, it 25 may:

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and the second second

(a) issue a temporary cease and desist order with 1 2 reasonable notice and opportunity for hearing. Following a hearing or if the person to whom the notice is addressed 3 does not request a hearing within 15 days after receipt of 4 S the notice, the department may issue a permanent cease and desist order that must remain in effect pending an appeal or 6 7 judicial review by the person aggrieved by a final order of the department. 8

9 (b) bring, without the issuance of a cease and desist 10 order, an action in district court to enjoin the act or 11 practice. On a proper showing, the court may grant a 12 permanent or temporary injunction, a restraining order, or 13 other appropriate writ and appoint a receiver or conservator 14 for the defendant or the defendant's assets. The department 15 may not be required to post a bond.

16 (c) place a licensee on probation;

17 (d) suspend a license for a period not to exceed 180 18 days;

19 (e) revoke a license;

20 (f) deny renewal of a license upon its expiration;

21 (g) impose a civil penalty not to exceed \$10,000 for 22 each violation of a provision of parts 1 through 6 of this 23 chapter or a rule of the department, whether or not the 24 person is licensed by the department;

25 (h) impose a combination of the penalties provided in

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subsections (1)(a) through (1)(g).

2 (2) A fine imposed by a district court or by the 3 department under this section must be collected by the 4 department and deposited in the special revenue account as 5 provided in 23-5-123.

6 (3) Imposition of a fine under this section is an
7 order from which an appeal may be taken pursuant to [section
8 12].

9 (4) If a person fails to pay a fine imposed under this 10 section, the fine is a lien on all of the assets and 11 property of the person in the state and may be recovered by 12 the department in a civil action.

13 (5) If a person fails to pay a fine imposed under this
14 section, he may not be licensed to operate a gambling device
15 or gambling enterprise in the state under parts 1 through 6
16 of this chapter.

17 Section 9. Section 23-5-123, MCA, is amended to read: "23-5-123. Disposal of money confiscated by reason of 18 19 violation of gambling laws. All-money-seized-or-taken-by-any 20 peace--veficer--and--confiscated--by--order-of-any-court;-by 21 reason-of-a-violation-of-the-gambling-laws-of-the--state--of Montana,-shall-be-deposited-with-the-county-treasurer-of-the 22 county--in--which-such-seizure-and-confiscation-was-made-and 23 shall-be-credited-to-the-poor-fund-of-the-county- All fines, 24 penalties, forfeitures, and confiscated money collected by 25

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1 criminal, civil, or administrative process for a violation of a provision of parts 1 through 6 of this chapter or a 2 3 rule of the department must be deposited in a special 4 revenue account for use by the department for: (1) training law enforcement personnel in the 5 investigation of illegal gambling activity; 6 7 (2) training persons licensed under the authority of 8 the department; or 9 (3) funding programs designed to treat persons with 10 habitual gambling problems." NEW SECTION. Section 10. Qualifications 11 for licensure. (1) A person whom the department determines is 12 13 qualified to receive a license under the provisions of this 14 chapter, except for the provisions of part 10, may be issued 15 a state gambling license. 16 (2) The applicant has the burden of proving his qualification to receive a license. 17 18 (3) An application for a license may not be granted 19 unless the department is satisfied that the applicant is: 20 (a) a person of good character, honesty, and 21 integrity: 22 (b) a person whose prior activities, criminal record, 23 if any, reputation, habits, and associations do not: 24 (i) pose a threat to the public interest of the state 25 or to the effective regulation and control of gambling; or

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1 (ii) create or-enhance-the-dangers A DANGER of illegal 2 practices. methods, and activities in the conduct of gambling or in the carrying on of the business and financial 3 4 arrangements incidental to the conduct of gambling; and 5 (c) in all other respects qualified to be licensed 6 consistent with the declared gambling policy of the state. 7 (4) A license to operate a gambling activity may not 8 be issued unless the applicant has demonstrated to the 9 department that: 10 (a) the applicant has adequate business probity, 11 competence, and experience; and 12 (b) the proposed financing of the entire operation is: 13 (i) adequate for the nature of the proposed operation: 14 and 15 (ii) from a suitable source. A lender or other source 16 of money or credit that the department finds does not meet the standards set forth in subsection (3) may be considered 17 18 unsuitable. NEW SECTION. Section 11. Operator 19 of gambling 20 establishment -- license -- fee. (1) It is a misdemeanor for 21 a person who is not licensed by the department as an 22 operator to make available to the public for play a gambling 23 device or gambling enterprise. 24 (2) An operator's license must include the following

25 information:

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(a) a description of the premises upon which the
 gambling will take place:

3 (b) the operator's name;

4 (c) a description of each gambling device or card game 5 table licensed to the operator by the department for play 6 upon the premises, including the type of game and license 7 number or decal number for each licensed game; and

8 (d) any other relevant information determined9 necessary by the department.

10 (3) The operator's license must be issued annually along with all other licenses for gambling devices or games licensed to the operator.

13 (4) The operator's license must be updated each time a
14 gambling device or card game table license is newly issued
15 or the device or game is removed from the premises.

16 (5) The department may not charge a fee for the 17 issuance of an operator's license.

18 (6) The operator's license must be prominently19 displayed upon the premises for which it is issued.

20 <u>NEW SECTION.</u> Section 12. Judicial review. (1) (a) A 21 person aggrieved by a final order of the department may 22 obtain a review of the order in district court by filing 23 with the court, within 30 days after entry of the final 24 order, a written petition requesting that the order be 25 modified or set aside in whole or in part.

1 (b) A copy of the petition must be served upon the 2 department at the same time. When the department receives 3 the copy of the petition, it shall certify and file in court a copy of the filing, testimony, and other evidence upon Δ which the final order was entered by the department. When 5 these have been filed with the court, the court has 6 exclusive jurisdiction to affirm, modify, enforce, or set 7 я aside the final order in whole or in part. A temporary cease and desist order from the department must remain in effect 9 10 and cannot be set aside by the court until a hearing has been held and a final order has been issued pursuant to 11 12 [section 8].

13 (2) (a) The review must be conducted by the district 14 court without a jury and must be confined to the record. In 15 a case of alleged irregularity in procedure before the 16 department not shown in the record, proof may be taken by 17 the court. The court, upon request, shall hear oral argument 18 and receive written briefs.

(b) The court may not substitute its judgment for that of the department as to the weight of the evidence on questions of fact. The court may affirm the decision of the department or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or

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<pre>(i) in violation of a constitutional or statutory provision; (ii) in excess of the statutory authority of the department; (iii) made upon unlawful procedure; (iv) affected by other error of law;</pre>	2 3 4 5 6	and-payment-or-del thingofvalue thereof-from-any contingent7-in-the
(ii) in excess of the statutory authority of the department; (iii) made upon unlawful procedure;	4	thereof-from-any
department; (iii) made upon unlawful procedure;	5	-
(iii) made upon unlawful procedure;	-	contingent7-in-the
	6	
(iv) affected by other error of law:		costs-of-suity-by-
	7	jurisdiction7tog
(v) clearly erroneous in view of the reliable,	8	case-shall-be-less
probative, and substantial evidence on the whole record;	9	asdefendants-in-
(vi) arbitrary or capricious or characterized by abuse	10	direct-or-continge
of discretion or clearly unwarranted exercise of discretion;	11	otherwise: A per
or	12	playing or betting
(vii) inadequate because findings of fact, upon issues	13	gambling enterpri
essential to the decision, were requested but not made.	14	thing of value and
(3) The commencement of proceedings under this	15	connected with t
section, unless specifically ordered by the court, may not	16	gambling device of
operate as a stay of the department's final order.	17	year following his
Section 13. Section 23-5-131, MCA, is amended to read:	18	(1) bring a
"23-5-131. Losses at gambling may be recovered in	19	jurisdiction to re
civil action. If-any-person7-by-playing-or-betting-at-any-of	20	(2) recover
thegamesprohibited-by-this-party-loses-to-another-person	21	exemplary damage:
any-sum-of-money-or-thing-of-value-and-pays-or-deliversthe	22	\$5,000; and
sameoranypart-thereof-to-any-person-connected-with-the	23	<u>(3)</u> join as
operating-or-conducting-ofsuchgame;eitherasowner;	24	<u>in the illega</u>
dealer,oroperator,theperson-who-so-loses-and-pays-or	25	enterprise."
	<pre>(v) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; (vi) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or (vii) inadequate because findings of fact, upon issues essential to the decision, were requested but not made. (3) The commencement of proceedings under this section, unless specifically ordered by the court, may not operate as a stay of the department's final order. Section 13. Section 23-5-131, MCA, is amended to read: "23-5-131. Losses at gambling may be recovered in civil action. if-any-person,-by-playing-or-betting-at-any-of thegamesprohibited-by-this-part,-loses-to-another-person any-sum-of-money-or-thing-of-value-and-pays-or-deliversthe sameoranypart-thereof-to-any-person-connected-with-the operating-or-conductingofsuchgame,eitheras-owner,</pre>	 (v) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; (vi) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; (vii) inadequate because findings of fact, upon issues (3) The commencement of proceedings under this (3) The commencement of proceedings under this (3) The commencement's final order. (3) Section 23-5-131, MCA, is amended to read: "23-5-131. Losses at gambling may be recovered in (vii) action. if-any-person;-by-playing-or-betting-at-any-of thegamesprohibited-by-this-part;-loses-to-another-person any-sum-of-money-or-thing-of-value-and-pays-or-deliversthe ange-oranypart-thereof-to-any-person-connected with-the (23 (24

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1	delivers-mayat-any-time-within-60-days-next-after-the-loss
2	and-payment-or-deliverysue-for-and-recoverthemoneyor
3	thing-ofvaluesolost-and-paid-or-delivered-or-any-part
4	thereof-from-anypersonhavinganyinterest,director
5	contingent7-in-the-game-as-owner7-backer7-or-otherwise7-with
6	costs-of-suit;-by-civil-action-before-any-court-of-competent
7	jurisdictiontogetherwithexemplary-damages-which-in-ne
8	case-shall-be-less-than-\$50-or-more-than-\$5007-and-mayjoin
9	asdefendants-in-said-suit-all-persons-having-any-interest;
0	direct-or-contingent;-in-such-game-asbackers;owners;or
1	otherwise: A person, or his dependent or guardian, who, by
2	playing or betting at an illegal gambling device or illegal
3	gambling enterprise, loses money, property, or any other
4	thing of value and pays and delivers it to another person
5	connected with the operation or conduct of the illegal
6	gambling device or illegal gambling enterprise, within 1
7	year following his loss, may:
8	(1) bring a civil action in a court of competent
9	jurisdiction to recover the loss;
0	(2) recover the costs of the civil action and
1	exemplary damages of no less than \$500 and no more than
2	\$5,000; and
3	(3) join as a defendant any person having an interest
4	in the illegal gambling device or illegal gambling
5	antorprise "

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1	Section 14. Section 23-5-135, MCA, is amended to read:
2	"23-5-135. Discharge of defendant. Upon-discoveryand
3	repaymentofthemoneyorotherthing;theperson
4	discovering-and-repaying-the-same;-with-costsandsuchan
5	amountofexemplarydamagesas-may-be-agreed-upon-by-the
6	parties-or-fixedbythecourt;shallbeacquittedand
7	discharged-from-any-further-or-other-forfeiturey-punishmenty
8	penalty;or-prosecution-he-or-they-may-have-incurred-for-so
9	winning-such-money-or-thing-discoveredandrepaid- (1) A
10	person against whom a civil action is brought as provided in
11	23-5-131 may move to have the action against him dismissed
12	if he has repaid to the person who suffered the loss or his
13	dependent the gambling loss, the costs of bringing the civil
14	action, and the exemplary damages agreed upon by the parties
15	or assessed by the court.
16	(2) A civil action brought to recover gambling losses
17	does not bar or interfere with another proceeding or action,
18	whether criminal, civil, or administrative, that may be
19	brought under the laws of the state.
20	(3) The clerk of the court shall notify the department
21	of a civil action based on a violation of a provision of
22	this chapter."
23	Section 15. Section 23-5-102, MCA, is amended to read:
24	"23-5-102. Gambling prohibitedpenalty. Except as
25	otherwiseprovided-by-law7-a-person-who-engages-in-gambling

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in-any-form-with-cards7-dice7-or-other-implements-or-devices 1 2 of-any-kind-wherein-anything-valuable-may--be--wagered--upon the---outcome---or---who--keeps--any--establishment,--place, 3 equipment;-or-apparatua-for-such-gambling-or-any--agents--or 4 employees-For-such-purpose-is-quilty-of-a-misdemeanor-and-is 5 punishable--by--a--fine--of--not-less-than-\$100-or-more-than 6 \$17000-or-imprisonment-not-less-than-3-months-or-more-than-1 7 year-or-by-both--such--fine--and--imprisonment specifically 8 9 authorized by statute, all forms of public gambling, 10 lotteries, and gift enterprises are prohibited."

NEW SECTION. Section 16. Counterfeiting or defacing documents -- penalty. (1) A person commits the offense of counterfeiting or defacing a document when he purposely or knowingly counterfeits, alters, or wrongfully displays a seal, decal, license, identification number or device, or other document issued by the department.

17 (2) A person convicted of the offense of
18 counterfeiting or defacing a document is guilty of a felony
19 and must be punished in accordance with [section 24].

20 Section 17. Section 23-5-108, MCA, is amended to read:

21 "23-5-108. Soliciting or persuading persons to visit 22 play illegal gambling resorts device prohibited. Any--person 23 who--persuades--or-solicits-another-to-visit-any-room7-tent7 24 apartment7-or--place--used--or--represented--by--the--person 25 soliciting--or-persuading-to-be-a-place-used-for-the-purpose

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of-running-any-of-the-games-prohibited-by-this-part-shall-be
punished-by-a-fine-of-not-less-than-\$100-or-more-than-\$1,000
or-imprisonment-not-less-than-3-months-or-more-than--l--year
or--by-both-such-fine-and-imprisonment-in-the-county-jail: A
person who advertises for or solicits another person to play
or engage in the use of an illegal gambling device is guilty
of a misdemeanor and is punishable under [section 23]."

8 NEW SECTION. Section 18. Obtaining anything of value 9 by fraud or operation of illegal gambling device or 10 enterprise. (1) A person who by gambling obtains money, property, or anything of value that does not exceed \$300 in 11 12 value by misrepresentation, fraud, or the use of an illegal 13 gambling device or an illegal gambling enterprise is guilty 14 of a misdemeanor and is punishable as provided in [section 15 23].

16 (2) A person who by gambling obtains money, property,
17 or anything of value that exceeds \$300 in value by
18 misrepresentation, fraud, or the use of an illegal gambling
19 device or an illegal gambling enterprise is guilty of a
20 felony and is punishable as provided in [section 24].

21 <u>NEW SECTION.</u> Section 19. Gambling on cash basis. (1) 22 In every gambling activity the consideration paid for the 23 chance to play must be cash. A participant shall present the 24 money needed to play the game as the game is being played. A 25 check, credit card, note, I O U, or other evidence of indebtedness may not be offered or accepted as part of the
 price of participation in the gambling activity or as
 payment of a debt incurred in the gambling activity.

4 (2) A person who violates this section is guilty of a 5 misdemeanor and must be punished in accordance with [section 6 23].

7 <u>NEW SECTION.</u> Section 20. Minors not to participate -8 penalty. (1) A person under 18 years of age may not be
9 permitted to participate in a gambling activity.

(2) A person who violates this section is guilty of a
misdemeanor and must be punished in accordance with (section
23).

Section 21. Section 23-5-103, MCA, is amended to read: 13 "23-5-103. Possession of illegal gambling implements 14 15 device prohibited -- exception. Any (1) Except as provided 16 in [section 22] and subsection (2) of this section, it is a misdemeanor punishable under [section 23] for a person who 17 has to have in his possession or under his control or who 18 permits to permit to be placed, maintained, or kept in any 19 room, space, enclosure, or building owned, leased, or 20 21 occupied by him or under his management or control any-fare boxy--faro--layouty--roulette--wheely--roulette--tabley-crap 22 23 table--punchboard--or-any-machine-or-apparatus-of--the--kind 24 mentioned--in--23-5-102--is-punishable-by-a-fine-of-not-less than-S100-or-more-than-S17000-and-may-be-imprisoned-for--not 25

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1	lessthan-3-months-or-more-than-l-year-in-the-discretion-of
2	the-courty-provided-that-this-section-shall-not <u>an</u> illegal
3	gambling device. This section does not apply to a public
4	officer or to a person coming into possession thereof of an
5	illegal gambling device in or by reason of the performance
6	of an official duty and holding the-same it to be disposed
7	of according to law.
B	(2) (a) The department may adopt rules to license
9	persons to manufacture gambling devices that are not legal
10	for public play in the state and are manufactured only for
11	export from the state.
12	(b) A person may not manufacture or possess an illegal
13	gambling device for export from the state without having
14	obtained a license from the department. The department may
15	charge an administrative fee for the license that is
16	commensurate with the cost of issuing the license."
17	Section 22. Section 23-5-104, MCA, is amended to read:
18	"23-5-104. Slotmachinespossessionunlawful
19	exception Possession of antique slot machines. (1) Except-as
20	provided-in-subsections-(2)through(5);itshallbea
21	misdemeanorandpunishable-as-hereinafter-provided-for-any
22	person-to-use;-possess;-operate;-keep;-or-maintain-foruse
23	oroperationorotherwise;anywherewithin-the-state-of
24	Montana;-any-siot-machine-of-any-sort-or-kind-whatsoever-
25	(2) The-provisions-of-subsection- (1) -and23-5-121do

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1	notapplyto-antique-slot-machines-possessed;-located;-and
2	used-in-accordance-with-subsections-(2)-through-(5)For-the
3	purposes-of-subsections-(2)-through(5);anantiqueslot
4	machineisasiot-machine-manufactured-prior-to-19507-the
5	operation-of-which-is-exclusively-mechanical-innatureand
6	is-not-aided-in-whole-or-in-part-by-any-electronic-means; <u>An</u>
7	antique slot machine is a slot machine manufactured prior to
8	1950 that is operated exclusively by mechanical means and is
9	not aided in whole or in part by any electrical means.
10	(3)(2) Except as provided in subsection (4) (3), an
11	antique slot machines machine may be possessed, located, and
12	operated only in a private residential dwelling.
13	(4)[3] Antique-slot-machines An antique slot machine
14	may be possessed or located for purposes of display only and
15	not for operation in any public museum owned and operated by
16	the state of-Montana, or a county, or a city.
1 7	(5)(4) No antique slot machine may be operated for any
18	commercial or charitable purpose."
19	NEW SECTION. Section 23. Criminal liabilities
20	misdemeanor. A person who purposely or knowingly violates a
21	provision of parts 1 through 6 of this chapter, the
22	punishment of which is for a misdemeanor, must, upon
23	conviction, be fined not less than \$500 or more than \$5,000,
24	
25	violation.

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NEW SECTION. Section 24. Criminal liabilities 1 2 felony. A person who purposely or knowingly violates a 3 provision of parts 1 through 6 of this chapter, the punishment for which is a felony, may upon conviction be 4 fined not more than \$50,000 or imprisoned for not more than 5 6 10 years, or both, for each violation. However, if the 7 person previously has been convicted of a felony involving 8 a gambling device, gambling activity, or gambling 9 enterprise, he must be imprisoned for at least 2 years.

10 NEW SECTION. Section 25. Prosecution. The county 11 attorney of the county in which a violation of a provision 12 of parts 1 through 6 of this chapter occurs shall prosecute 13 all gambling actions within the jurisdiction of the 14 department. However, if the county attorney declines 15 prosecution or fails to commence an action within a 16 reasonable time, the attorney general may initiate and 17 conduct the prosecution on behalf of the state.

18 Section 26. Section 23-5-311, MCA, is amended to read: 19 "23-5-311. Authorized card games. (1)-It-is-unlawful 20 for-any-person-to-conduct-or-participate-in-any-card-game-or 21 make-any-tables-available-for--the--playing--of--card-games 22 except-those-card-games-authorized-by-this-part.

23 (2)(1) The card games authorized by this part are and
24 are limited to the card games known as bridge, cribbage,
25 hearts, panguingue, pinochle, pitch, poker, rummy, solo, and

whisty-soloy-and-poker.

-	milder, color, and ponet
2	(2) A person may only conduct or participate in a live
3	card game or make a live card game table available for
. 4	public play of a live card game that is specifically
5	authorized by this part and described by department rules.
б	(3) This part does not apply to games simulated on
7	electronic video gambling machines authorized under part 6
8	of this chapter."
9	NEW SECTION. Section 27. Presence and control of
10	dealer. A live card game may not be played except on a live
11	card game table in the presence and under the control of a
12	licensed dealer on the premises of a licensed operator.
13	NEW SECTION. Section 28. Card game dealers
14	license. (1) A person may not deal cards in a live card game
15	without being licensed annually by the department.
16	(2) The fee for each year in which the license is
17	effective must be commensurate with the administrative costs
18	associated with dealer licensing as established by
19	department rules. The fee may not be prorated.
20	(3) The department shall retain for administrative
21	purposes the license fee charged for the issuance of a
22	dealer's license.
23	(4) A licensed dealer shall have on his person, and
74	diantau upon request big dealer's license when he is

24 display upon request, his dealer's license when he is 25 working as a dealer.

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(5) The department may adopt rules to implement 1 temporary licensing procedures until a permanent license is 2 3 issued to a dealer. The department may delegate the authority to issue temporary licenses to local governments 4 including the authority to assess and retain a fee for the 5 temporary license. 6

7 NEW SECTION, Section 29. Live card game table -permit -- fees -- disposition of fees. (1) A person who has 8 been granted an operator's license under [section 11] and a 9 10 license under 16-4-401(2) to sell alcoholic beverages for consumption on the premises OR WHO OPERATES AN ESTABLISHMENT 11 12 FOR THE PRINCIPAL PURPOSE OF GAMING AND HAS BEEN GRANTED AN OPERATOR'S LICENSE UNDER [SECTION 11] may be granted an 13 annual permit for the placement of live card game tables. 14 (2) The annual permit fee in lieu of taxes for each 15 live card game table operated in a licensed operator's 16

17 premises may not be prorated and must be:

(a) \$250 for the first table; 18

(b) \$750 for the second table; and 19

20 (c) \$1,000 for the third and each additional table. (3) The department shall retain for administrative 21 22 purposes \$100 of the fee collected under this part for each 23 live card game table.

(4) The department shall forward on a quarterly basis 24 25 the remaining balance of the fee collected under subsection

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(2) to the treasurer of the county, or the clerk, finance officer, or treasurer of the city or town in which the live card game table is located for deposit to the county or municipal treasury. Phe-local-government-portion-of-this-fee is-statutorily-appropriated-to-the-department-as-provided-in 17-7-502-for-deposit-to-the-county-or-municipal-treasury-

Section 30. Section 23-5-321, MCA, is amended to read: 7 8 "23-5-321. Hicensing Issuance of permits by local 9 governing bodies prohibited. (1)-Any A city, town, or county 10 may not issue licenses permits for the live card games 11 provided-for or live card game tables authorized in this part. to--be-conducted-on-premises-which-have-been-freensed 12 13 for-the-sale-of-liquor7-beer7-food7-cigarettes7-or-anv-other 14 consumable--products---Within--the--cities--or--towns---such 15 licenses--may--be--issued--by--the--city--or-town-council-or 16 commission:-Licenses-for-games-conducted-on-premises-outside 17 the-limits-of-any-city-or-town-may-be-issued-by--the--county 18 commissioners-of-the-respective-counties--When-a-license-has been-required--by--any--city;--town;--or-county;-no-game-as 19 20 provided-for-in-this-part-shall-be-conducted-on-any-premises 21 which-have-been-licensed-for-the-sale-of-liquor--beer-foodcigarettes,-or-any-other--consumable--product--without--such 22 23 license-having-first-been-obtained-24 (2)--Any--governing--body--may-charge-an-annual-license 25

fee-for-each--license--so--issued--under--this--party--which

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1 license-fee7--if-any7-shall-expire-on-June-30-of-each-year7
2 and-such-fee-shall-be-prorated7

3 (3)--Any-license-issued-pursuant-to-this-part-shall--be
4 deemed--to--be--a-revocable-privilege7-and-no-holder-thereof
5 may-acquire-any-vested-rights-therein-or-thereunder-"

Section 31. Section 23-5-312, MCA, is amended to read:
"23-5-312. Prizes not to exceed one three ONE hundred
dollars. No--prize-for-any-individual-game-shall-exceed-the
value-of-\$100: A prize for an individual live card game may
not exceed the value of \$300 \$100. Games shall may not be
combined in any manner so as to increase the value of the
ultimate prize awarded."

Section 33. Section 23-5-313, MCA, is amended to read: "23-5-313. Rules of play to be posted -- rake-off approved. Rules governing the conduct of each game shall must be prominently posted within the sight of the players at a live card game table on the premises of any-licensed establishment--where--such--game--is--conducted a licensed 1 <u>operator</u>. Such <u>The</u> rules shall <u>must</u> include notice of the 2 maximum percentage rake-off, if any, and shall <u>must</u> require 3 that the person taking the rake-off do so in an obvious 4 manner and--only--after--announcing--the--amount--of---each 5 rake-off;--which--shall--only--be-taken-at-the-conclusion-of 6 each-game-when-the-winner-of-each-individual--pot--has--been 7 determined."

Section 34. Section 23-5-331, MCA, is amended to read: 8 9 "23-5-331. Penalty. Every A person who willfully 10 purposely or knowingly violates or who procures, aids, or 11 abets in the--willful a violation of this part or any 12 ordinance, resolution, or regulation rule adopted pursuant 13 thereto--shall--be--deemed to this part is guilty of a 14 misdemeanor and-upon-conviction-shall-be-punished-by-a--fine 15 of--not--more-than-\$1;000-or-imprisonment-in-the-county-jail for-not-more-than-3-months;-or-both punishable pursuant to 16 17 [section 23]."

18 <u>NEW SECTION.</u> Section 35. Authorized live bingo, keno,
19 and raffles. (1) A person may only conduct or participate in
20 a live bingo and keno game or raffle operated pursuant to
21 this part.

22(2) This part does not apply to a game simulated on a23video gambling machine authorized by part 6 of this chapter.24NEW SECTION.Section 36. Exemptcharitable

organizations. An organization qualified for exemption under

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1 26 U.S.C. 501(c)(3) and (c)(4) is exempt from the taxation 2 and license fees imposed by this part. The organization 3 shall comply with other statutes and rules relating to the 4 operation of live bingo and keno or raffles. A qualified 5 organization shall apply to the department for a cost-free 6 permit to conduct charitable live bingo and keno games or 7 raffles.

8 <u>NEW SECTION.</u> Section 37. Bingo and keno callers --9 qualifications -- license -- fee. (1) A person may not act 10 as a bingo or keno caller without being licensed annually by 11 the department.

(2) The fee for each year in which the license is
effective must be commensurate with the costs associated
with bingo or keno caller licensing as established by
department rules. The fee may not be prorated.

16 (3) The department shall retain for administrative
17 purposes the license fee charged for the issuance of a bingo
18 or keno caller's license.

(4) A bingo or keno caller shall have on his person,
and display upon request, his bingo or keno caller's license
whenever he is working as a bingo or keno caller.

22 (5) The department may adopt rules to implement 23 temporary licensing procedures until a permanent license is 24 issued. The department may delegate the authority to issue 25 temporary licenses to local governments, including the

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1 authority to assess and retain a fee for a temporary
2 license.

3 <u>NEW SECTION</u>. Section 38. Live bingo or keno permit --4 fees -- disposition of fees. (1) A person who has been 5 granted an operator's license may be granted an annual 6 permit by the department to conduct live bingo or keno games 7 on specified premises.

8 (2) The permit fee for each of the premises in which a
9 live bingo or keno game is conducted may not be prorated and
10 must be \$500.

11 (3) The department shall retain the permit fee for 12 administrative costs.

NEW SECTION. Section 39. Bingo 13 and keno gross proceeds tax -- records -- distribution -- quarterly 14 statement and payment. (1) A licensee who has received a 15 permit to operate bingo or keno games shall pay to the 16 17 department a tax of 3% 5% of the gross proceeds from the 18 operation of each live bingo and keno game operated on his 19 premises.

20 (2) A licensee shall keep a record of gross proceeds 21 in the form the department requires. At all times during the 22 business hours of the licensee the records must be available 23 for inspection by the department.

24 (3) A licensee shall, within 15 days after the end of25 each guarter, complete and deliver to the department a

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statement showing the total gross proceeds for each live
 keno or bingo game operated by him and the total amount due
 as live bingo or keno gross proceeds tax for the preceding
 quarter. This statement must contain any other relevant
 information required by the department.

6 (4) The department shall forward the tax collected 7 under subsection (3) to the treasurer of the county or the 8 clerk, finance officer, or treasurer of the city or town in 9 which the licensed game is located for deposit to the county or municipal treasury. A county is not entitled to proceeds 10 11 from taxes on live bingo or keno games located in 12 unincorporated cities and towns within the county. The-tax 13 collected-under-subsection-(3)-is--statutorily--appropriated 14 to-the-department-as-provided-in-17-7-502-for-deposit-to-the 15 county-or-municipal-treasury-

16 Section 40. Section 23-5-412, MCA, is amended to read: "23-5-412. Bingo Card prices and prizes. The price for 17 18 an individual bingo or keno card may not exceed 50 cents. 19 Bingo prizes may be paid in either tangible personal 20 property or cash---except--that--a--prize--must-be-paid-in 21 tangible-personal-property--if--the--game--is--played--on--a 22 player-operated--electronic-video-game-machine. A prize may 23 not exceed the value of \$100 \$300 \$100 for each individual 24 bingo award or keno card. The-price-for-an-individual-bingo 25 $card-may-not-exceed-5\theta-cents$. It shall-be is unlawful to, in any manner, combine any awards so as to increase the
 ultimate value of such the award."
 Section 41. Section 23-5-413, MCA, is amended to read:

"23-5-413. Raffle prizes restricted----exemption. (1) 4 5 Raffle prizes must-be-in-tangible-personal-property-only-and 6 not---in---money----cash----stocks----bonds----evidences--of 7 indebtednessy-or-other-intangible-personal-property-and must 8 not exceed the value of \$1,000 for each individual raffle 9 eard ticket. It shall--be is unlawful to, in any manner, combine any awards so as to increase the ultimate value of 10 11 such-award the prize awarded for each ticket. 12 (2) A separate permit must be issued by the board of 13 county commissioners for each raffle conducted within its jurisdiction. The permit must be issued before the raffle 14 15 may be conducted. A person who has conducted a raffle must

16 submit an accounting to the board of county commissioners 17 within 30 days following the completion of the raffle. The 18 sale of raffle tickets authorized by this part is restricted 19 to events and participants within the geographic confines of 20 the state. 21 t27(3) (a) The restrictions of subsection (1) do not

22 apply to a raffle conducted by a nonprofit corporation,
23 religious corporation sole, or other nonprofit organization
24 when <u>if</u> the corporation or organization is licensed
25 permitted by the board of county commissioners to conduct

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1	the raffle. A-separate-license-shall-berequiredforeach
2	raffle-conducted.
3	(b) The <u>nonprofit</u> organization or corporation seeking
4	the license permission under subsection $(2)(3)(a)$ must shall
5	apply to the board of county commissioners for the license
6	permit and must provide the following information:
7	(i) the cost and number of raffle tickets to be sold;
8	(ii) the charitable purposes the proceeds of the raffle
9	are intended to benefit; and
10	(iii) the proposed prizes and their value.
11	(c) The proceeds from the sale of the raffle tickets
12	are-to may be used only for charitable purposes or to pay
13	for prizes. The raffle prize must be in tangible personal
14	property only and not in money, cash, stock, bonds, evidence
15	of indebtedness, or other intangible personal property. None
16	of the proceeds may be used for the administrative cost of
17	conducting the raffle.
18	(d)Thecorporationor-organizationconducting-the
19	raffle-must-submit-an-accountingtotheboardofcounty
20	commissioners-within-30-days-following-the-completion-of-the
21	raffleThe-person-or-persons-submitting-the-application-to
22	the-board-of-county-commissioners-along-with-the-corporation
23	or-organization-conducting-the-raffle-shallberesponsible
24	forsubmittingtheaccountingtotheboardofcounty
25	commissioners."

1 Section 42. Section 23-5-414, MCA, is amended to read: 2 23-5-414. Restrictions on bingor and kenor-and-raffles ---bingo-or-keno-machines-in-establishment-limit----hours-of 3 operation----exception. (1) In the playing of live bingo or . 4 keno, no a person who is not physically present on the 5 premises where the game is actually conducted shall may not 6 7 be allowed to participate as a player in the game. +2)--Raffles---authorized---by---this---part--shall--be 8 9 restricted-to-events-and-participants-within-the--geographic 10 confines-of-the-state-of-Montana-+3+--No---establishment---may--receive--licenses--under 11 12 23-5-421-for-or-make-available-for-play-more-than--15--bingo or--keno--machines---A--local--governing--body--however--may 13 14 restrict-the-number-of-licensed-machines-available-for--play 15 in-an-establishment-to-less-than-157-but-must-allow-at-least 57 16 (4)---(a)-Except--as--provided--in-subsection-(4)(b);-an 17 18 establishment-that-receives-a-license-to--make--a--bingo--or 19 keno--machine--available-for-play-must-have-the-machine-shut off-each-day-during--the--hours--provided--in--16-3-304--for 20 closure----of----licensed----retail----alcoholie----beverage 21 establishments: 22 (b)--A-local-governing-body-may-establish-any-hours--of 23 24 play--for-bingo-or-keno-machines-that-it-determines-proper-"

NEW SECTION. Section 43. Hours

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25

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play

of

restrictions -- penalty. (1) A live bingo or keno game must be closed for play between the hours of 2 a.m. and 8 a.m. of each day. However7-in-the-jurisdiction-of-a-local-government where-the-live-bingo-or--keno--game--is--played7--the--local government--may--adopt--an-ordinance-defining-other-hours-of play-within-that-jurisdiction:

7 (2) A violation of this section is a misdemeanor8 punishable under [section 23].

Section 44. Section 23-5-431, MCA, is amended to read: 9 "23-5-431. Penalty Criminal penalty. Every A person 10 who willfully purposely or knowingly violates or who 11 procures, aids, or abets in the-willful a violation of this 12 13 part or any ordinance, resolution, or regulation rule adopted pursuant thereto--shall--be-deemed to this part is 14 15 guilty of a misdemeanor and--upon-conviction--shall--be punished--by--a-fine-of-not-more-than-\$1,000-or-imprisonment 16 in-the-county-jail-for-not--more--than--3--months--or--both 17 18 punishable pursuant to [section 23]."

Section 45. 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 gambling machine,
including but not limited to integrated circuit chips,

printed wired assembly, printed wired boards, printing
 mechanisms, video display monitors, and metering devices,
 and cabinetry.

4 (2)--"Bepartment"-means-the-department-of-commerce.

5 (2) "Bingo machine" means an electronic video gambling 6 machine that, upon insertion of cash, is available to play 7 bingo as defined by rules of the department. The machine 8 utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may 9 10 receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that 11 12 directly dispenses coins, cash, tokens, or anything else of 13 value. 14 (3) "Draw poker machine" means an electronic video 15 gambling machine that, upon insertion of cash, is available 16 to play or simulate the play of the game of draw poker, as 17 defined by rules of the department. The machine utilizes a 18 video display and microprocessors in which, by the skill of 19 the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term 20 21 does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value. 22 23 (3)(4) "Keno machine" means an electronic video game 24 gambling machine that, upon insertion of cash, is available 25 to play or-simulate-the-play-of-the-game-of keno or-bingo as

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provided-in-part-4-of-this--chapter,--utilizing defined by 1 rules of the department. The machine utilizes a video 2 display and microprocessors, in which, by the skill of the 3 player, or by chance, or both, the player may receive free Δ games or credits that can may be redeemed for cash. The term 5 6 does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value. 7 +4+--"Licensed-establishment"-meanst 8 ta)--with-respect-to-the-lidensure-of-keno-machines--an 9 establishment--that--is-licensed-to-sell-alcoholic-beverages 10 for-consumption-on-the-premises-or-an-establishment-licensed 11 under-23-5-421;-and 12 13 +b}--with-respect-to-the-licensure-of-video-draw--poker 14 machines,---an---establishment--that--is--licensed--to--sell alcoholic-beverages-for-consumption-on-the-premises-15 {5}--*bicensee*--means--an---individual7---partnership7 16 corporation---or--association-that-has-been-issued-a-license 17 by-the-department-for-the-placement-and-operation--of--video 18 draw--poker--machines--or--keno--machines--in--the--licensed 19 20 establishment-of-the-individual; -- partnership; -- corporation; or-association-21 +6+--"Manufacturer-distributor"--means--an--individual; 22 23 partnership--corporation--or--association--that--assembles; produces,-and-makes-or-supplies-video-draw-poker-machines-or 24 associated--equipment-for-sale;-use;-or-distribution-in-this 25 -41-SB 431

1 st	tate;
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(7)(5) "Net machine income" means money put into a 2 video draw-poker-or-keno gambling machine minus credits paid 3 out in cash. Δ

5 6 term-is-defined-in-this-section--that-is-owned-or--possessed by--an-applicant-on-the-day-he-applies-for-a-license-for-the 7 used-machine-and-that-was-owned-or--operated--in--the--state 8 9 prior-to-June-307-1987-

+9)--- "Used-video-draw-poker-machine"-means-a-video-draw 10 11 poker--machine,--as--that--term--is-defined-in-this-section, which-is-owned-or-possessed-by-an-applicant-on--the--day--he 12 13 applies--for--a--license--for-the-used-machine-and which-was 14 owned-or-operated-in-the-state-prior-to-Pebruary-37-1984+ (18)-"Video-draw-poker--machine"--means--an--electronic 15

video----game--machine---that;---upon--insertion--of--cash;--is 16 available-to-play-or-simulate-the-play-of-the-game--of--draw 17 poker,--as--provided-in-this-part,-utilizing-a-video-display 18 19 and-microprocessors-in-which--by-the-skill-of-the-player--or 20 by--chance---or--both---the-player-may-receive-free-games-or credita-that-can-be-redeemed-for-cash---The--term--does--not 21 include--a--machine--that--directly--dispenses--coins,-cash; 22 tokens-or-anything-else-of-value: 23 (6) "Video gambling machine manufacturer-distributor" 24 means a person who assembles, produces, makes, supplies, or 25

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1	repairs video gambling machines or associated equipment for
2	sale, use, or distribution in the state."
3	Section 46. Section 23-5-603, MCA, is amended to read:
4	"23-5-603. Video draw-poker-or-keno gambling machines
5	possession play hours-of-play restriction. (1)
6	Nopersonmayplace-an-electronic-video-game-machine-that
7	simulates-or-offers-a-game-of-poker7-bing07-or-kenoinhis
8	licensed-establishment-unless-he-is-licensed-under-23-5-612-
9	A person may only make available for public play the video
10	gambling machines specifically authorized by this part.
11	(2) The video gambling machines specifically
12	authorized by this part are bingo, keno, and draw poker
13	machines. A person may not make available for public play a
14	video gambling machine unless he has obtained an operator's
15	license. Machines-licensed Only machines for which permits
16	have been granted under 23-5-612 are-legal;-and-it-is-legal
17	to-play-such-machines;-except-that-a-person-under-the-age-of
18	10-years-may-not-play-a-video-draw-poker-or-keno-machine <u>may</u>
19	be made available for play by the public on the premises of ${\scriptstyle ullet}$
20	a licensed operator.
21	<pre>(2)Exceptasprovidedinsubsection(3);an</pre>
22	establishment-that-receives-a-license-to-make-avideodraw
23	pokermachine-available-for-play-must-have-the-machine-shut
24	off-each-day-duringthehoursprovidedin16-3-304for
25	closureoflicensedretailalcoholicbeverage

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1 establishments-2 +3+--A-local-governing-body-may-establish-any-hours--of play--for--video--draw--poker--machines--that--it-determines 3 4 proper-+4)--The-provisions-of-part-3-of-this--chapter--do--not 5 apply--to--or--prohibit-video-draw-poker-or-kenc-machines-or 6 the-playing-of-such-machines-" 7 8 Section 47. Section 23-5-611, MCA, is amended to read: "23-5-611. State-license Machine permit qualifications 9 10 -- limitations ---right-to-hearing. (1) (a)-A-person-who-has been-granted-a-license-under-16-4-401(2)-to--sell--alcoholic 11 12 beverages--for--consumption-on-the-premises-may-be-granted-a license-for-the-placement-of-video-draw--poker--machines--in 13 his--licensed--establishment: Only--a A person who has been 14 granted an operator's license under [section 11] and a 15 license under 16-4-401(2) to sell alcoholic beverages for 16 17 consumption on the premises OR WHO OPERATES AN ESTABLISHMENT FOR THE PRINCIPAL PURPOSE OF GAMING AND HAS BEEN GRANTED AN 18 19 OPERATOR'S LICENSE UNDER (SECTION 11) may be granted a 20 permit for the placement of video gambling machines in his 21 premises. 22 tb+--Each---applicant---for--a--license--shall--on--the application-form-disclose-to--the--department--any--previous 23 experience--or--involvement--as--an--owner--or--operator--of 24 25 gambling-devices-and-establishments--Previous-experience--or

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1	involvement-includes:
2	(i)controllingofgamblingdevicesas-an-owner-or
3	operator;
4	(ii)-employment-with-the-owner-or-operator-ofgambling
5	devices;
6	{iii}-employmentinestablishmentswhere-gambling-is
7	offered-to-the-public;-and
8	(iv)-conviction-of-violation-of-state-or-local-gambling
9	taws-in-any-jurisdiction.
10	(2) An applicant for a permit shall disclose on the
11	application form to the department any information required
12	by the department consistent with the provisions of [section
13	10].
14	(2)(3) A licensee may not have on the premises or make
15	available for play on the premises ofhislicensed
16	establishment more than five 20 machines of any combination
17	that are legal under this part. In the jurisdiction of a
18	local government where video gambling machines are played,
19	the local government may by ordinance or resolution limit
20	the number of video gambling machines to no less than five
21	per operator premises.
22	(3)A-person-denied-a-state-license-has-the-right-to-a
23	hearing-before-the-departmentThe-hearing-must-be-conducted
24	in-accordancewiththeprovisionsoftheMontana
25	Administrative-Procedure-Act-"

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Section 48. Section 23-5-612, MCA, is amended to read: 1 2 "23-5-612. State--license Machine permits -- fee --3 used-keno-machines. (1) (a) The department, upon payment of 4 the fee provided in subsection (1)(b) (2) and in conformance with rules adopted under 23-5-605 this part, shall issue to 5 6 the licensee operator a license permit for each video draw 7 poker-or-keno gambling machine. 8 (b)(2) The department shall charge an annual license 9 permit fee of \$100 \$200 for each video draw--poker--machine 10 and--\$100--for--each--keno gambling machine. The department shall retain \$100 of the total license permit fee collected 11 12 for purposes of administering this part--except-23-5-615. 13 The remaining \$100 must be returned on a quarterly basis to the local government jurisdiction in which the gambling 14 15 machine is located. 16 (3) The license permit expires on June 30 of each year, and the fee may not be prorated. 17 (2)--A---used---keno--machine--may--be--licensed--under 18 subsection-(1)-without-meeting-the-requirements-of--23-5-609

- 19 subsection-(1)-without-meeting-the-requirements-of--23-5-609 20 if---the--applicant--for--licensure--can--establish--to--the 21 satisfaction--of--the--department--that;--on--the--date---of 22 application;--he--owns-or-possesses-a-machine-that-was-owned 23 or-operated-in-the-state-prior-to-June-30;-1907;--A--license
- 24 issued--under--this--subsection--expires-for-all-purposes-no
- 25 later-than-June-307-1989-"
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1 Section 49. Section 23-5-631, MCA, is amended to read: 2 "23-5-631. Examination and approval of new video draw 3 poker gambling machines and associated equipment -- fee. (1) 4 The department shall examine and may approve a new video 5 draw--poker--machines gambling machine and associated 6 equipment which is are manufactured, sold, or distributed 7 for use in this the state before the video draw-poker 8 gambling machine or associated equipment is sold, played, or 9 used.

10 (2) A video draw-poker gambling machine or associated 11 equipment may not be examined or approved by the department 12 until the <u>video gambling machine</u> manufacturer-distributor of 13 the machine or associated equipment is licensed as required 14 in 23-5-625.

15 (3) All video gambling machines approved by the
16 department of commerce prior to [the effective date of this
17 act] must be considered approved under this part.

18 (3)(4) The department shall require the 19 manufacturer-distributor seeking the examination and 20 approval of a new video draw--poker gambling machine or 21 associated equipment to pay the anticipated actual costs of 22 the examination in advance and, after the completion of the 23 examination, shall refund overpayments or charge and collect 24 amounts sufficient to reimburse the department for 25 underpayments of actual costs.

(5) The department may inspect and test and approve,
 disapprove, or place a condition upon a video gambling
 machine prior to its distribution and placement for play by
 the public."

5 <u>NEW SECTION.</u> Section 50. Video gambling machine 6 specifications -- rules. The department shall adopt rules 7 describing the video gambling machines authorized by this 8 part and stating the specifications for video gambling 9 machines authorized by this part.

10 Section 51. Section 23-5-616, MCA, is amended to read: 11 "23-5-616. Removal of machine from public access. If a machine fails to meet the specifications and requirements of 12 23-5-6067-23-5-6077-0r-23-5-608 this part or any rule of the 13 14 department at any time after its initial licensure permit has been issued, the licensee operator shall immediately 15 remove the machine from public access until it meets all 16 requirements." 17

Section 52. Section 23-5-625, MCA, is amended to read: 18 19 "23-5-625. Manufacturer-distributor--of---video---draw 20 poker----machines Video gambling machine manufacturer-distributor -- license -- fees. (1) It is 21 22 unlawful for any person to assemble, produce, manufacture, selly-or-distribute supply, or repair any video draw--poker 23 24 gambling machine or associated equipment for use or play in this the state without having first been issued a video 25

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1 <u>gambling machine</u> manufacturer-distributor's license by the 2 department.

3 (2) The department shall charge an annual license fee
4 of \$1,000 for the issuance or renewal of a video gambling
5 machine manufacturer-distributor's license.

6 (3) In addition to other license fees, the department 7 may charge the applicant a one-time video gambling machine 8 manufacturer-distributor's license application processing 9 fee. The processing fee may not exceed the department's 10 actual costs for processing an application.

11(4) Allvideogamblingmachine12manufacturer-distributor's licenses expire on June 30 of13each year, and the license fee may not be prorated.

14 (5) The department shall retain the license and
15 processing fees collected for purposes of administering this
16 part, except-23-5-645 unless otherwise provided."

17 Section 53. Section 23-5-610, MCA, is amended to read: 18 "23-5-610. Video draw-poker-and-keno gambling machine 19 net income tax -- records -- distribution -- quarterly 20 statement and payment. (1) Each <u>A</u> licensee shall pay to the 21 department a video draw-poker-and-keno gambling machine tax 22 of 15% of net machine income from each video draw-poker-and 23 keno gambling machine licensed under this part.

24 (2) Each <u>A</u> licensee shall keep a record of net machine
25 income in such form as the department may require. The

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1 records must at all times during the business hours of the 2 licensee be subject to inspection by the department, --its3 agents, or employees.

(3) Each A licensee shall, within 15 days after the 4 5 end of each quarter, complete and deliver to the department a statement showing the total net machine income from each 6 video draw-poker-and-keno gambling machine licensed to him, 7 together with the total amount due the state as video draw я poker-and-keno gambling machine net income tax for the 9 preceding guarter. The statement must contain such other 10 relevant information as the department may require. 11

12 (4) (a) The department must--deposit shall forward
13 one-third of the tax collected under subsection (3) in to
14 the general fund.

(b) The department must shall forward the remaining 15 two-thirds of the tax collected under subsection (3) to the 16 treasurer of the incorporated county or the clerk, finance 17 officer, or treasurer of the city or town in which the 18 licensed machine is located, for deposit to the county or 19 20 municipal treasury. Counties are not entitled to proceeds from taxes on income from video draw-poker-and-keno gambling 21 machines located in incorporated cities and towns. The 22 two-thirds local government portion of tax collected under 23 subsection (3) is statutorily appropriated to the department 24 as provided in 17-7-502 for deposit to the county or 25

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1 municipal treasury."

Section 54. Section 23-5-608, MCA, is amended to read:
"23-5-608. Limitation on amount of money played and
value of prizes -- payment of credits in cash. (1) A video
draw--poker-or-keno gambling machine may not allow more than
\$2 to be played on a game or award free games or credits in
excess of the value-of-\$100-per-hand following amounts:

8 (a) \$100 a-hand-or-\$888 a game for a video draw poker
 9 machine; and

10 (b) \$800 a game for a video keno or bingo machine.

11 (2) Each <u>A</u> licensee shall pay in cash all credits owed 12 to a player as shown on a valid ticket voucher provided--in 13 23-5-606(4)(k)."

14 Section 55. Section 23-5-607, MCA, is amended to read: *23-5-607. Expected payback -- verification. The 15 department shall prescribe the expected payback value of one 16 credit played awarded to be at least 80% of the value of a 17 one credit played. Each video draw-poker-or-keno gambling 18 19 machine must have an electronic accounting device that the 20 department may use to verify the winning percentage. The 21 department-may-not-publish-or-otherwise--disseminate--income 22 figures---and--other--statistics--obtained--in--the--payback verification-process-or-contained--in--payback--verification 23 24 reports--in--a--manner--that--allows--or--helps--a-person-to identify_a_particular--machine--or--to--match--a--particular 25

1 machine-with-a-particular-income-or-statistic-"

NEW SECTION. Section 56. Video gambling machines -hours of play -- penalty. (1) A video gambling machine may not be played between the hours of 2 a.m. and 8 a.m. each day. However, -in-the--jurisdiction--of--a--local--government where--the--video--gambling--machine--is--played, --the-local government-may-adopt-an-ordinance-defining-the-hours-of-play within-that-jurisdiction.

9 (2) A violation of this section is a misdemeanor10 punishable under [section 23].

11 Section 57. Section 23-5-613, MCA, is amended to read: 12 "23-5-613. Investigations--and--violations Violations. 13 fl)---The---department---or---duly---authorized---department 14 representatives-shall-make-necessary-investigations7-suspend 15 or-revoke-state-licenses-for-violations-of-this-part7-except 16 23-5-615---and--hold-hearings-on-such-matters--A-license-may 17 be-suspended-prior-to-a-hearing-upon-a-finding-of-danger--to 18 public--health--and-welfare-but-may-not-be-revoked-until-the 19 hearing-is-completed-20 +2)--A Unless otherwise provided in this part, a 21 violation of this part7--except--23-5-6457 or a rule 22 promulgated under-23-5-605 by the department is a criminal 23 offenser--and--a--fine--not--to-exceed-\$10,000-for-the-first 24 violation-and-\$15,000-for-a--subsequent--violation--must--be

imposed misdemeanor punishable under (section 23].

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1 +3}--If--a--video--draw--poker--machine--is-operated-in 2 violation-of-this-part;-except-23-5-615;-it--may--be--seized 3 under-23-5-121-and-the-provisions-of-23-5-122-apply-4 f4)--Employees--of--the--department--or-duly-authorized department-representatives-designated-as-enforcement--agents 5 6 may--investigate-the-background-of-license-applicants-to-the 7 extent-judged-necessary-by-the-department;-but-no-person-may 8 be-investigated-prior-to-his-submission--of--an--application 9 for-a-licenser 10 +5+--+a+-Pindings-of-suspected-illegal-activity-must-be reported-to-the-appropriate-law-enforcement-agency-11 12 tb)--The--clerk-of-the-court-shall,-upon-final-judgment 13 of-conviction-of-a-licensee7-report-to--the--department--the 14 name-of-the-licensee-convicted-of-violating-a-local-gambling 15 ordinance. 16 (c)--On--receipt--of--such--report;--the-department-may 17 commence-proceedings-to-revoke--or--suspend--the--licensee's video-draw-poker-license-18 19 +6+--Any--peace--officer--of--this--state--may-arrest-a person-for--tampering--with--a--video--draw--poker--machine7 20 21 attempting-or--conspiring--to-manipulate-the-outcome-or-the 22 payoff-of-a-video-draw-poker-machine---or--manipulating--the 23 outcome--or-payoff-of-a-video-draw-poker-machine-by-physical 24 tampering-or-other-interference-with-the-proper--functioning 25 of-the-machine-"

NEW SECTION.Section 58. Tamperingwithormanipulating video gambling machine -- penalty. (1) It is afelony to manipulate or attempt or conspire to manipulatethe outcome or payoff of a video gambling machine byphysical tampering or other interference with the properfunctioning of the machine.

7 (2) A violation of this section is a felony and must8 be punished in accordance with [section 24].

9 Section 59. Section 23-5-503, MCA, is amended to read: 10 "23-5-503. Rules. (1) The card used for recording the 11 pool and upon which the squares or spaces appear shall 12 clearly state indicate in advance of the sale of any chances 13 the number of chances to be sold in that specific pool, the 14 name of the event, the consideration to be paid for each 15 chance, and the total amount to be paid to the winners.

16 (2) No A chance to participate in a sports pool may 17 not be sold other than upon the premises in which the sports 18 pool is conducted. No An individual chance to participate in a sports pool shall may not be sold for a consideration in 19 excess of \$1 \$10, and the total amount to be paid to the 20 winners of any individual sports pool shall may not exceed 21 the value of \$100. The winner of any sports pool shall 22 23 receive a 100% payout of the value of the sports pool."

Section 60. Section 23-5-509, MCA, is amended to read:
"23-5-509. Penalty. Every <u>A</u> person who willfully

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2 abets in the-willful a violation of this part shall--be 3 deemed is guilty of a misdemeanor and-upon-conviction-shall be--punished--by--a--fine--of--mot--more--than---\$17000---or 4 5 imprisonment--in-the-county-jail-for-not-more-than-3-months; or-both punishable pursuant to [section 23]." 6 Section 61. Section 23-5-1101, MCA, is amended to 7 8 read: 9 "23-5-1101. Definition. As used in this part, "Calcutta pool" means a form of auction pool in--which 10 persons--bid--or-wager-money;-with-winnings-awarded-based-on 11 12 the-outcome--of--an--event;--except--that conducted by an 13 organization gualified for exemption under 26 U.S.C. 14 501(c)(3) or (c)(4) and authorized by the department. The 15 Calcutta pool must be an auction pool in which: 16 (1) a person's wager is equal to his bid; (2) the organization conducting the pool has no direct 17 18 interest in the pool; 19 (3) the rules of the pool are publicly posted; (4) no more than one wager for each competitor is 20 21 allowed; 22 (5) at least 50% of the total pool is paid out in 23 prizes; 24 (6) persons may not bid or wager money on any elementary school or high school sports event; and 25

purposely or knowingly violates or who procures, aids, or

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1 (7) the underlying event has more than two entrants." Section 62. Section 23-5-1105, MCA, is amended to 2 3 read: "23-5-1105. Penalty. Any A person who violates a 4 provision of this part is quilty of a misdemeanor and-upon 5 conviction-shall-be-fined-not-more-than-\$17000-or-imprisoned 6 7 in-the-county-jail-for-a-term-not-to--exceed--3--months;--or 8 both punishable pursuant to [section 23]." 9 Section-63.--Section-17-7-5027-MCA7-is-amended-to-read: 10 #17-7-502---Statutory--appropriations----definition---11 requisites-for-validity---(1)-A-statutory--appropriation--is 12 an--appropriation--made--by--permanent--law--that-authorizes 13 spending-by-a-state-agency-without-the-need-for--a--biennial 14 legislative-appropriation-or-budget-amendment; 15 +2+--Except--as--provided--in--subsection--+4+7--to--be 16 effective,-a-statutory-appropriation-must-comply--with--both 17 of-the-following-provisions: 18 fa)--The-law-containing-the-statutory-authority-must-be 19 listed-in-subsection-(3)-20 (b) The--law--or-portion-of-the-law-making-a-statutory appropriation--must--specifically--state--that--a--statutory 21 appropriation-is-made-as-provided-in-this-section-22 23 (3)--The--following--laws--are-the-only-laws-containing 24 statutory--appropriations:--2-9-202;---2-17-105;---2-18-812; 25 10-3-2037----10-3-3127----10-3-3147---10-4-3017---13-37-3047

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1	£5-25-£237£5-3£-7027£5-36-££27+£5-65-£2£7£5-70-£0£;
2	16-1-404;16-1-410;-16-1-411;-17-3-212;-17-5-404;-17-5-424;
3	±7-5-804;19-8-504;19-9-702;19-9-1007;19-10-205;
4	£9-10-305;£9-10-506;£9-11-5±2;£9-11-5±3;£9-11-606;
5	£9-£2-301;£9-£3-604;20-4-109;20-6-406;20-8-£££;
6	23-5-610; <u>fsection-291;-fsection-391;</u> -23-5-1027;-33-31-212;
7	33-31-401;37-51-501;39-71-2504;53-6-150;53-24-206;
8	67-3-205;75-1-1101;75-7-305;76-12-123;80-2-103;
9	80-2-228;-82-11-136;-90-3-301;-90-3-302;-90-3-412;-90-4-215;
10	90-9-306;-90-15-103;-section-13;-House-Bill-No861;-Laws-of
11	1985;-and-section-1;-Chapter-454;-baws-of-1987;
12	<pre>(4)There-is-astatutoryappropriationtopaythe</pre>
13	principal;-interest;-premiums;-and-costs-of-issuing;-paying;
14	and-securing-all-bonds;-notes;-or-other-obligations;-as-due;
15	that-have-been-authorized-and-issued-pursuant-to-the-laws-of
16	MontanaAgenciesthathaveenteredintoagreements
17	authorizedbythelawsofMontanatopaythestate
18	treasurer;fordeposit-in-accordance-with-17-2-101-through
19	17-2-107;-as-determined-by-the-statetreasurer;anamount
20	sufficienttopay-the-principal-and-interest-as-due-on-the
21	bonds-or-notes-have-statutoryappropriationauthorityfor
22	<pre>such-payments(In-subsection-(3):-pursuant-to-sec157-Ch-</pre>
23	6077-5-19877-the-inclusion-of-15-65-121-terminates-June-307
24	19897pursuantto-sec107-Ch6647-519877-the-inclusion
25	of-39-71-2504-terminates-June-307-19917-and-pursuant-to-sec-

*

1	67-Ch4547-b19877-the-inclusion-of-sec17Ch4547b-
2	1987;-terminates-July-1;-1988;)"
3	NEW SECTION. SECTION 63. EXEMPTION FROM SUNRISE
4	PROVISIONS. THE PROVISIONS OF TITLE 2, CHAPTER 8, PART 2,
5	AND 5-4-207 DO NOT APPLY TO [THIS ACT].
6	NEW SECTION. Section 64. Reorganization procedure.
7	The provisions of sections 2-15-131 through 2-15-137 govern
8	the transfer of the various functions contained in [this
9	act) from the department of commerce to the department of
10	justice.
11	NEW SECTION. Section 65. Implementation. (1) The
12	governor shall by executive order implement the provisions
13	of [this act].
14	(2) The governor may by executive order assign to the
15	department of justice in a manner consistent with [this act]
16	functions allocated to the department of commerce by the
17	51st legislature relating to the implementation of Title 23,
18	chapter 5, parts 1 through 6, that are not transferred by
19	[this act].
20	NEW SECTION. Section 66. Repealer. Sections 23-5-105
21	through 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124
22	through 23-5-127, 23-5-132 through 23-5-134, 23-5-141
23	through 23-5-144, 23-5-201 through 23-5-211, 23-5-301
24	through 23-5-303, 23-5-314 through 23-5-316, 23-5-322,

25 23-5-323, 23-5-332, 23-5-401 through 23-5-403, 23-5-411,

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23-5-415 through 23-5-418, 23-5-421 through 23-5-423,
 23-5-504 through 23-5-508, 23-5-510, 23-5-511, 23-5-601,
 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618,
 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103,
 23-5-1104, MCA, are repealed.

6 <u>NEW SECTION.</u> Section 67. Extension of authority. Any 7 existing authority to make rules on the subject of the 8 provisions of [this act] is extended to the provisions of 9 [this act].

10 <u>NEW SECTION.</u> Section 68. Codification instruction. 11 (1) [Sections 1, 2, 4 through 8, 10 through 12, 16, 18 12 through 20, and 23 through 25] are intended to be codified 13 as an integral part of Title 23, chapter 5, part 1, and the 14 provisions of Title 23, chapter 5, part 1, apply to 15 [sections 1, 2, 4 through 8, 10 through 12, 16, 18 through 16 20, and 23 through 25].

17 (2) [Sections 27 through 29 and 32] are intended to be
18 codified as an integral part of Title 23, chapter 5, part 3,
19 and the provisions of Title 23, chapter 5, part 3, apply to
20 [sections 27 through 29 and 32].

(3) [Sections 35 through 39 and 43] are intended to be
codified as an integral part of Title 23, chapter 5, part 4,
and the provisions of Title 23, chapter 5, part 4, apply to
[sections 35 through 39 and 43].

25 (4) [Sections 50, 56, and 58] are intended to be

codified as an integral part of Title 23, chapter 5, part 6,
 and the provisions of Title 23, chapter 5, part 6, apply to
 [sections 50, 56, and 58].

4 (5) The code commissioner shall recodify the 5 provisions of Title 23, chapter 5, part 11, as an integral 6 part of Title 23, chapter 5, part 2.

7 <u>NEW SECTION.</u> Section 69. Severability. If a part of 8 [this act] is invalid, all valid parts that are severable 9 from the invalid part remain in effect. If a part of [this 10 act] is invalid in one or more of its applications, the part 11 remains in effect in all valid applications that are 12 severable from the invalid applications.

-End-

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23-5-627, 23-5-635, 23-5-636, 23-5-1103, AND 23-5-1104, 1 SENATE BILL NO. 431 1 2 INTRODUCED BY GAGE, HARPER, B. BROWN, MAZUREK, 2 MCA." 3 ADDY, STRIZICH, MERCER, CRIPPEN, HANNAH, 3 STATEMENT OF INTENT 4 HARP, VAN VALKENBURG 4 This bill requires a statement of intent because BY REQUEST OF THE DEPARTMENT OF JUSTICE 5 5 [section 7] authorizes the department of justice to adopt 6 6 administrative rules to implement [this act]. [This act] is 7 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE 7 intended to provide uniform statewide regulation of gambling PUBLIC GAMBLING LAWS OF MONTANA: PROVIDING FOR LICENSURE AND 8 8 in Montana under the supervision of the attorney general. 9 REGULATION OF GAMBLING ACTIVITIES BY THE DEPARTMENT OF 9 It is the intent of the legislature that the department 10 JUSTICE; PROVIDING-FOR--STATUTORY--APPROPRIATION; PROVIDING 10 of justice adopt necessary rules to implement uniform 11 FOR A GAMING ADVISORY COUNCIL: AMENDING SECTIONS 27-7-5027 11 statewide regulation of gambling in Montana consistent with 12 23-5-101 THROUGH 23-5-104, 23-5-108, 23-5-123, 23-5-131, 12 the purposes and policies set forth in [section 1] of this 23-5-135, 23-5-311 THROUGH 23-5-313, 23-5-321, 23-5-331, 13 13 14 23-5-412 THROUGH 23-5-414, 23-5-431, 23-5-503, 23-5-509, bill. 14 15 23-5-602, 23-5-603, 23-5-607, 23-5-608, 23-5-610 THROUGH 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 23-5-613, 23-5-616, 23-5-625, 23-5-631, 23-5-1101, AND 16 16 17 23-5-1105, MCA; AND REPEALING SECTIONS 23-5-105 THROUGH NEW SECTION. Section 1. Public policy of 17 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124 THROUGH concerning gambling. (1) The legislature finds that for the 18 18 purpose of ensuring the proper gambling environment in this 19 23-5-127, 23-5-132 THROUGH 23-5-134, 23-5-141 THROUGH 19 state it is necessary and desirable to adopt a public policy 23-5-144, 23-5-201 THROUGH 23-5-211, 23-5-301 THROUGH 20 20 21 23-5-303, 23-5-314 THROUGH 23-5-316, 23-5-322, 23-5-323, regarding public gambling activities in Montana. 21 22 23-5-332, 23-5-401 THROUGH 23-5-403, 23-5-411, 23-5-415 legislature therefore declares it is necessary to: 22 (a) create and maintain a uniform regulatory climate 23 THROUGH 23-5-418, 23-5-421 THROUGH 23-5-423, 23-5-504 23 24 THROUGH 23-5-508, 23-5-510, 23-5-511, 23-5-601, 23-5-605, that assures players, owners, tourists, citizens, and others 24 that the gambling industry in this state is fair and is not 25 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618, 23-5-626, 25



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state

The

influenced by corrupt persons, organizations, or practices;
(b) protect legal public gambling activities from unscrupulous players and vendors and detrimental influences;
(c) protect the public from unscrupulous proprietors
and operators of gambling establishments, games, and
devices;

7 (d) protect the state and local governments from those
8 who would conduct illegal gambling activities that deprive
9 those governments of their tax revenues;

(e) protect the health, safety, and welfare of all
citizens of this state, including those who do not gamble,
by regulating gambling activities; and

(f) promote and fund programs necessary to provide 13 14 assistance to those who are adversely affected by legalized 15 gambling, including compulsive gamblers and their families. 16 (2) The legislature adopts the policy that an applicant for a license or permit or other department 17 18 approval under parts 1 through 6 of this chapter does not 19 have a right to the issuance of a license or permit or the granting of the approval sought. The issuance of a license 20 21 or permit issued or other department approval granted pursuant to the provisions of parts 1 through 6 of this 22 23 chapter is a revocable privilege. A holder does not acquire 24 a vested right in the license or permit issued or other department approval granted. A license or permit issued 25

under parts 1 through 6 of this chapter may not be sold,
 assigned, leased, or transferred.

3 (3) Revenue to fund the expense of administration and 4 control of gambling as regulated by parts 1 through 6 of 5 this chapter must be derived solely from fees, taxes, and 6 penalties on gambling activities, except the gambling 7 activities of the Montana state lottery and the parimutuel 8 industry.

9 <u>NEW SECTION.</u> Section 2. General application. This 10 chapter applies only to public gambling activities within 11 the state of Montana.

Section 3. Section 23-5-101, MCA, is amended to read:
"23-5-101. Definitions. Unless the context requires
otherwise, the following definitions apply to parts 1
through 6 of this chapter:

16 (1) A-slot-machine-is-defined-as-a-machine-operated-by 17 inserting--a--coing--tokeng--chipg--trade--checkg--og--paper 18 currency-therein-by-the-player-and-from-the-play-of-which-he 19 obtains-or-may-obtain-money;-checks;-chips;-tokens;-or-paper currency--redeemable--in-money--Merchandise-vending-machines 20 21 where-the-element--of--chance--does--not--enter--into--their 22 operation--are--not--within--the--provisions--of--this-part; 23 "Applicant" means a person who has applied for a license or 24 permit issued by the department pursuant to parts 1 through 25 6 of this chapter.

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1	(2) "Application" means a written request for a
2	license or permit issued by the department. The department
3	shall adopt rules describing the forms and information
4	required for issuance of a license.
5	(3) "Authorized equipment" means, with respect to live
6	keno or bingo, the receptacle and numbered objects drawn
7	from it, the master board upon which such objects are placed
8	as drawn, the cards or sheets bearing numbers or other
9	designations to be covered and the objects used to cover
10	them, the boards or signs, however operated, used to
11	announce or display the numbers or designations as they are
12	drawn, public address system, and all other articles
13	essential to the operation, conduct, and playing of live
14	keno or bingo.
15	(4) "Bingo" means a game of chance played for prizes
16	with a card bearing a printed design of 5 columns of 5
17	squares each, 25 squares in all. The letters B-I-N-G-O must
18	appear above the design, with each letter above one of the
19	columns. No more than 75 numbers may be used. One number
20	must appear in each square-except-for-the-center-square
2 1	which-is-considered-a-free-play. Numbers and letters are
22	RANDOMLY drawn from a receptacle and announced by a bingo
23	caller using authorized equipment, and the game is won by
24	the person who first covers a previously designated
25	arrangement of numbers on the bingo card.

1	(5) "Bingo caller" means a person licensed by the
2	department to work as a live bingo caller who, using
3	authorized equipment, announces the order of the objects
4	drawn in live bingo.
5	(6) "Card game table" or "table" means a live card
6	game table authorized by permit and made available to the
7	public on the premises of a licensed gambling operator.
8	(7) "Dealer" means a person with a dealer's license
9	issued under part 3 of this chapter.
10	(8) "Department" means the department of justice.
11	(9) "Distributor" means a person who:
12	(a) purchases or obtains from another person equipment
13	of any kind for use in gambling activities; and
14	(b) sells, leases, or otherwise furnishes the
15	equipment to another person for use in public.
16	(10) "Gambling" or "gambling activity" means risking
17	money, credit, deposit, check, property, or any other thing
18	of value for a gain that is contingent in whole or in part
19	upon lot, chance, or the operation of a gambling device or
20	gambling enterprise.
21	(11) "Gambling device" means a mechanical,
22	electromechanical, or electronic device, machine, slot
23	machine, instrument, apparatus, contrivance, scheme, or
24	system USED OR INTENDED FOR USE IN ANY GAMBLING ACTIVITY.
25	(12) "Gambling enterprise" means an activity, scheme,

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1	or agreement or an attempted activity, scheme, or agreement
2	to provide gambling or a gambling device to the public.
3	(13) "GROSS PROCEEDS" MEANS GROSS REVENUE RECEIVED LESS
4	PRIZES PAID OUT.
5	(13) (14) "Illegal gambling device" means a gambling
6	device not specifically authorized by statute or by the
7	rules of the department.
8	(14) (15) "Illegal gambling enterprise" means a gambling
9	enterprise that violates a statute or a rule of the
10	department.
11	{}5 ;(16) "Keno" means a game of chance in which prizes
12	are awarded using a card with 8 horizontal rows and 10
13	columns on which a player may pick up to 10 numbers. A keno
14	caller, using authorized equipment, shall select at random
15	20 numbers out of numbers between 1 and 80, inclusive.
16	<pre>ti6;(17) "Keno caller" means a person licensed by the</pre>
17	department to work as a live keno caller who, using
18	authorized equipment, announces the order of the numbers
19	drawn in live keno.
20	<u>{17}(18) "License" means an operator's, dealer's,</u>
21	caller's or manufacturer-distributor's license issued to a
22	person by the department.
23	<pre>tto;(19) "Licensee" means a person who has received a</pre>
24	license from the department.
25	<pre>(19)(20) "Live card game", OR "card game", or "game"</pre>

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1	means a card game that is played in public between persons
2	on the premises of a licensed gambling operator.
3	<pre>{20}(21) "Lottery" or "gift enterprise" means a scheme,</pre>
4	by whatever name known, for the disposal or distribution of
5	property by chance among persons who have paid or promised
6	to pay valuable consideration for the chance of obtaining
7	the property or a portion of it or for a share or interest
8	in the property upon an agreement, understanding, or
9	expectation that it is to be distributed or disposed of by
10	lot or chance. However, "gift enterprise" does not mean:
11	(a) lotteries authorized under part 10 of this
12	chapter; or
13	(b) cash or merchandise attendance prizes or premiums
14	that the county fair commissioners of agricultural fairs and
15	rodeo associations may give away at public drawings at fairs
16	and rodeos.
17	(21) (22) "Manufacturer" means a person who assembles
18	from raw materials or subparts a completed piece of
19	equipment or pieces of equipment of any kind to be used as a
20	gambling device.
21	[22] (23) "Operator" means a person who purchases,
22	receives, or acquires, by lease or otherwise, and operates
23	or controls for use in public, a gambling device or gambling
24	enterprise authorized under parts 1 through 6 of this
25	chapter.

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1	(23)(24) "Permit" means approval from the department to
2	make available for public play a gambling device or gambling
3	enterprise approved by the department pursuant to parts 1
4	through 6 of this chapter.
5	(2)<u>(24)(25)</u> Inaddition-to-their-ordinary-meaning;-the
6	words-"person" "Person" or "persons"7-as-used-in-thispart;
7	include means both natural and artificial persons and all
8	partnerships, corporations, associations, clubs, fraternal
9	orders, and societies, including religious, fraternal, and
10	charitable organizations.
11	<pre>t25;(26) "Premises" means the physical building or</pre>
12	property within or upon which a licensed gambling activity
13	occurs, as stated on an operator's license application and
14	approved by the department.
15	<pre>{26}(27) "Public GAMBLING" means GAMBLING CONDUCTED IN:</pre>
16	(a) a place, building, or conveyance to which the
17	public has access or may be permitted to have access; or
18	(b) a place of public resort, including but not
19	limited to a facility owned, managed, or operated by a
20	partnership, corporation, association, club, fraternal
21	order, or society, including a religious-fraternaty or
22	charitable organization.
23	<pre>(28) "Raffle" means a gift enterprise in which each</pre>
24	participant buys a chance or chances to win a prize.
25	<pre>(28)(29) "Slot machine" means a mechanical, electrical,</pre>
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1	electronic, or other gambling device, contrivance, or
2	machine that, upon insertion of a coin, currency, token,
3	credit card, or similar object or upon payment of any
. 4	valuable consideration, is available to play or operate, the
5	play or operation of which, whether by reason of the skill
6	of the operator or application of the element of chance, or
7	both, may deliver or entitle the person playing or operating
8	the gambling device to receive cash, premiums, merchandise,
9	tokens, or anything of value, whether the payoff is made
10	automatically from the machine or in any other manner. This
11	definition does not apply to video gambling machines
12	authorized under part 6 of this chapter.
13	<pre>t29;(30) "Video gambling machine" is a gambling device</pre>
14	specifically authorized by part 6 of this chapter and the
15	rules of the department."
16	NEW SECTION. Section 4. Authority of local
17	governments to regulate gambling. (1) A local government. may
18	not license; <u>OR</u> regulate;orotherwiselimit a form of
19	gambling authorized by parts 1 through 6 of this chapter OR
20	ASSESS OR CHARGE ANY FEES OR TAXES unless specifically
21	authorized by statute.
22	(2) An incorporated city or town may enact an
23	ordinance or resolution defining ZONING certain areas within
24	its incorporated limits in which gambling is prohibited.
25	(3) A county may enact a resolution defining ZONING
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certain areas in the county, not within an incorporated city
 or town, in which gambling is prohibited.

3 (4) A county or incorporated city or town may not
4 restrict the number of licenses that the department may
5 issue.

NEW SECTION. Section 5. Department 6 as criminal justice agency. The department is a criminal justice agency. 7 Designated agents of the department are granted peace 8 9 officer status to investigate, regulate, and control all legal and illegal gambling activities in this state 10 regulated by parts 1 through 6 of this chapter and the rules 11 12 of the department.

<u>NEW SECTION.</u> Section 6. Department employees - activities prohibited. An employee of the department <u>OR ANY</u>
 <u>OTHER PERSON</u> directly involved with the prosecution,
 investigation, regulation, or licensing of gambling may not:
 (1) serve as an officer or manager of a corporation or
 organization that conducts a gambling activity;

19 (2) receive or share in, directly or indirectly, any 20 profit of a gambling activity regulated by the department; 21 (3) have a beneficial or pecuniary interest in a 22 contract for the manufacture or sale of a gambling device, 23 the conduct of a gambling activity, or the provision of 24 independent consultant services in connection with a 25 gambling activity. <u>NEW SECTION.</u> Section 7. Powers and duties of
 department -- licensing. (1) The department shall administer
 the provisions of parts 1 through 6 of this chapter.

4 (2) The department shall adopt rules to administer and
5 implement parts 1 through 6 of this chapter.

6 (3) The department shall provide licensing procedures,
7 prescribe necessary application forms, and grant or deny
8 license applications.

9 (4) The department shall prescribe recordkeeping 10 requirements for licensees, provide a procedure for 11 inspection of records, provide a method for collection of 12 taxes, and establish penalties for the delinquent reporting 13 and payment of required taxes.

14 (5) The department may suspend, revoke, deny, or place
15 a condition on a license issued under parts 1 through 6 of
16 this chapter.

17 (6) The department may not make public or otherwise
18 disclose information obtained in the <u>APPLICATION OR</u> tax
19 reporting processes, except for general statistical
20 reporting or studies.

(7) THE DEPARTMENT SHALL ASSESS, COLLECT, AND DISBURSE
 ANY FEES, TAXES, OR CHARGES AUTHORIZED UNDER PARTS 1 THROUGH
 6 OF THIS CHAPTER.
 NEW SECTION. Section 8. Injunction and other

25 remedies. (1) If it appears to the department that a person

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has engaged in or is about to engage in an act or practice constituting a violation of a provision of parts 1 through 6 of this chapter or a rule or order of the department, it may:

5 (a) issue a temporary cease and desist order with 6 reasonable notice and opportunity for hearing. Following a 7 hearing or if the person to whom the notice is addressed 8 does not request a hearing within 15 days after receipt of 9 the notice, the department may issue a permanent cease and 10 desist order that must remain in effect pending an appeal or 11 judicial review by-the-person-aggrieved-by-a-final-order-of 12 the-department.

13 (b) bring, without the issuance of a cease and desist 14 order, an action in district court to enjoin the act or 15 practice. On a proper showing, the court may grant a 16 permanent or temporary injunction, a restraining order, or 17 other appropriate writ and appoint a receiver or conservator 18 for the defendant or the defendant's assets. The department 19 may not be required to post a bond.

20 (c) place a licensee on probation;

21 (d) suspend a license for a period not to exceed 180
22 days;

23 (e) revoke a license;

24 (f) deny renewal of a license upon its expiration;

25 (g) impose a civil penalty not to exceed \$10,000 for

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each violation of a provision of parts 1 through 6 of this
 chapter or a rule of the department, whether or not the
 person is licensed by the department;

4 (h) impose a combination of the penalties provided in
5 subsections (1)(a) through (1)(g).

6 (2) A fine imposed by a district court or by the 7 department under this section must be collected by the 8 department and deposited in the special revenue account as 9 provided in 23-5-123.

(3) Imposition of a fine under this section is an
order from which an appeal may be taken pursuant to [section
12].

13 (4) If a person fails to pay a fine imposed under this
14 section, the fine is a lien on all of the assets and
15 property of the person in the state and may be recovered by
16 the department in a civil action.

17 (5) If a person fails to pay a fine imposed under this
18 section, he may not be licensed to operate a gambling device
19 or gambling enterprise in the state under parts 1 through 6
20 of this chapter.

21 Section 9. Section 23-5-123, MCA, is amended to read: 22 "23-5-123. Disposal of money confiscated by reason of 23 violation of gambling laws. All-money-seized-or-taken-by-any 24 peace-officer-and-confiscated-by-order-of-any-courty-by 25 reason-of-a-violation-of-the-gambling-laws-of-the--state-of

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1	Montana;-shall-be-deposited-with-the-county-treasurer-of-the
2	countyinwhich-such-seizure-and-confiscation-was-made-and
3	shall-be-credited-to-the-poor-fund-of-the-county- All fines,
4	penalties, forfeitures, and confiscated money collected by
5	criminal, civil, or administrative process for a violation
6	of a provision of parts 1 through 6 of this chapter or a
7	rule of the department must be deposited in a special
8	revenue account for use by the department for:
9	(1) training law enforcement personnel in the
10	investigation of illegal gambling activity;
11	(2) training persons licensed under the authority of
12	the department; or
13	(3) funding programs designed to treat persons with
14	habitual gambling problems."
15	NEW SECTION. Section 10. Qualifications for
16	licensure. (1) A person whom the department determines is
17	qualified to receive a license under the provisions of this
18	chapter, except for the provisions of part 10, may be issued
19	a state gambling license.
20	(2) The applicant has the burden of proving his
21	qualification to receive a license.
22	(3) Anapplication-for-a A license may not be granted
23	unless the department is satisfied that the applicant is:
24	(a) a person of good character, honesty, and
25	integrity;
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1	(b) a person whose prior activities, criminal record,
2	if any, reputation, habits, and associations do not:
3	(i) pose a threat to the public interest of the state
4	or to the effective regulation and control of gambling; or
5	(ii) create or-enhance-the-dangers <u>A_DANGER</u> of illegal
б	practices, methods, and activities in the conduct of
7	gambling or in the carrying on of the business and financial
8	arrangements incidental to the conduct of gambling; and
9	(c) in all other respects qualified to be licensed
10	consistent with the declared gambling policy of the state.
11	(4) A license to operate a gambling activity may not
12	be issued unless the applicant has demonstrated to the
13	department that:
14	(a) the applicant has adequate business probity,
15	competence, and experience; and
16	(b) the proposed financing of the entire operation is:
17	(i) adequate for the nature of the proposed operation;
18	and
19	(ii) from a suitable source. A lender or other source
20	of money or credit that the department finds does not meet
21	the standards set forth in subsection (3) may be considered
22	unsuitable.
23	NEW SECTION. Section 11. Operator of gambling
24	establishment license fee. (l) It is a misdemeanor for
25	a person who is not licensed by the department as an

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operator to make available to the public for play a gambling
 device or gambling enterprise.

3 (2) An operator's license must include the following4 information:

5 (a) a description of the premises upon which the
6 gambling will take place;

(b) the operator's name;

7

8 (c) a description of each gambling device or card game
9 table licensed to the operator by the department for play
10 upon the premises, including the type of game and license
11 number or decal number for each licensed game; and

12 (d) any other relevant information determined13 necessary by the department.

14 (3) The operator's license must be issued annually
15 along with all other licenses for gambling devices or games
16 licensed to the operator.

17 (4) The operator's license must be updated each time a
18 gambling device or card game table license is newly issued
19 or the device or game is removed from the premises.

20 (5) The department may not charge a fee for the21 issuance of an operator's license.

22 (6) The operator's license must be prominently23 displayed upon the premises for which it is issued.

24 <u>NEW SECTION.</u> Section 12. Judicial review. (1) (a) A 25 person aggrieved by a final order of the department may

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obtain a review of the order in district court by filing
 with the court, within 30 days after entry of the final
 order, a written petition requesting that the order be
 modified or set aside in whole or in part.

5 (b) A copy of the petition must be served upon the 6 department at the same time. When the department receives 7 the copy of the petition, it shall certify and file in court 8 a copy of the filing, testimony, and other evidence upon 9 which the final order was entered by the department. When these have been filed with the court, the court has 10 11 exclusive jurisdiction to affirm, modify, enforce, or set aside the final order in whole or in part. A temporary cease 12 and desist order from the department must remain in effect 13 14 and cannot be set aside by the court until a hearing has 15 been held and a final order has been issued pursuant to 16 [section 8].

17 (2) (a) The review must be conducted by the district 18 court without a jury and must be confined to the record. In 19 a case of alleged irregularity in procedure before the 20 department not shown in the record, proof may be taken by 21 the court. The court, upon request, shall hear oral argument 22 and receive written briefs.

(b) The court may not substitute its judgment for that
of the department as to the weight of the evidence on
questions of fact. The court may affirm the decision of the

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department or remand the case for further proceedings. The
 court may reverse or modify the decision if substantial
 rights of the appellant have been prejudiced because the
 administrative findings, inferences, conclusions, or
 decisions are:

6 (i) in violation of a constitutional or statutory7 provision;

8 (ii) in excess of the statutory authority of the
9 department;

10 (iii) made upon unlawful procedure;

11 (iv) affected by other error of law;

12 (v) clearly erroneous in view of the reliable,13 probative, and substantial evidence on the whole record;

14 (vi) arbitrary or capricious or characterized by abuse
15 of discretion or clearly unwarranted exercise of discretion;
16 or

17 (vii) inadequate because findings of fact, upon issues18 essential to the decision, were requested but not made.

(3) The commencement of proceedings under this
section, unless specifically ordered by the court, may not
operate as a stay of the department's final order.

Section 13. Section 23-5-131, MCA, is amended to read:
 "23-5-131. Losses at gambling may be recovered in
 civil action. If-any-person; by-playing-or-betting-at-any-of
 the--games--prohibited-by-this-part;-loses-to-another-person

1 any-sum-of-money-or-thing-of-value-and-pays-or-delivers--the 2 same--or--any--part-thereof-to-any-person-connected-with-the 3 operating-or-conducting-of--such--game;--either--as--owner; dealery--or--operatory--the--person-who-so-loses-and-pays-or 4 5 delivers-may_-at-any-time-within-60-days-next-after-the-loss 6 and-payment-or-delivery--sue-for-and-recover--the--money--or 7 thing--of--value--so--lost-and-paid-or-delivered-or-any-part 8 thereof-from-any--person--having--any--interest;--direct--or 9 contingenty-in-the-game-as-ownery-backery-or-otherwisey-with 10 costs-of-suit--by-civil-action-before-any-court-of-competent 11 jurisdiction;--together--with--exemplary-damages-which-in-no 12 case-shall-be-less-than-S50-or-more-than-S5007-and-may--join 13 as--defendants-in-said-suit-all-persons-having-any-interest; 14 direct-or-contingenty-in-such-game-as--backersy--ownersy--or otherwise: A person, or his dependent or guardian, who, by 15 playing or betting at an illegal gambling device or illegal 16 17 gambling enterprise, loses money, property, or any other 18 thing of value and pays and delivers it to another person 19 connected with the operation or conduct of the illegal

20 gambling device or illegal gambling enterprise, within 1

- 21 year following his loss, may:
- 22 (1) bring a civil action in a court of competent
- 23 jurisdiction to recover the loss;
- 24 (2) recover the costs of the civil action and
- 25 exemplary damages of no less than \$500 and no more than

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1 <u>\$5,000; and</u> 2 (3) join as a defendant any person having an interest 3 in the illegal gambling device or illegal gambling 4 enterprise." 5 Section 14. Section 23-5-135, MCA, is amended to read: 6 *23-5-135. Discharge of defendant. Upon-discoveryand 7 repaymentofthemoneyorotherthing,theperson 8 discovering-and-repaying-the-same,-with-costsandsuchan 9 amountofexemplarydamagesas-may-be-agreed-upon-by-the 10 parties-or-fixedbythecourt,shallbeacquittedand 11 discharged-from-any-further-or-other-forfeiture,-punishment, 12 penalty,or-prosecution-he-or-they-may-have-incurred-for-so 13 winning-such-money-or-thing-discoveredandrepaidt (1) A 14 person against whom a civil action is brought as provided in 15 23-5-131 may move to have the action against him dismissed 16 if he has repaid to the person who suffered the loss or his 17 dependent the gambling loss, the costs of bringing the civil 18 action, and the exemplary damages agreed upon by the parties 19 or assessed by the court. 20 (2) A civil action brought to recover gambling losses 21 does not bar or interfere with another proceeding or action, 22 whether criminal, civil, or administrative, that may be 23 for the second of
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20 (2) A civil action brought to recover gambling losses 21 does not bar or interfere with another proceeding or action,
21 does not bar or interfere with another proceeding or action,
22 whether criminal, civil, or administrative, that may be
23 brought under the laws of the state.
24 (3) The clerk of the court shall notify the department
25 of a civil action based on a violation of a provision of
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1 <u>this chapter.</u>"

2 Section 15. Section 23-5-102, MCA, is amended to read: "23-5-102. Gambling prohibited ---penalty. Except as 3 4 otherwise--provided-by-lawy-a-person-who-engages-in-gambling 5 in-any-form-with-cards,-dice,-or-other-implements-or-devices 6 of-any-kind-wherein-anything-valuable-may--be--wagered--upon the---outcome---or---who--keeps--any--establishment;--place; 7 8 equipment,-or-apparatus-for-such-gambling-or-any--agents--or 9 employees-for-such-purpose-is-quilty-of-a-misdemeanor-and-is 10 punishable--by--a--fine--of--not-less-than-\$100-or-more-than 11 \$17888-or-imprisonment-not-less-than-3-months-or-more-than-1 12 year-or-by-both--such--fine--and--imprisonment specifically 13 authorized by statute, all forms of public gambling, 14 lotteries, and gift enterprises are prohibited." NEW SECTION. Section 16. Counterfeiting or defacing 15 16 documents -- penalty. (1) A person commits the offense of 17 counterfeiting or defacing a document when he purposely or 18 knowingly counterfeits, alters, or wrongfully displays a 19 seal, decal, license, identification number or device, or other document issued by the department. 20 21 (2) A person convicted of the offense of

22 counterfeiting or defacing a document is guilty of a felony23 and must be punished in accordance with [section 24].

Section 17. Section 23-5-108, MCA, is amended to read:
*23-5-108. Soliciting or persuading persons to visit

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play illegal gambling resorts device prohibited. Any--person 1 who--persuades--or-solicits-another-to-visit-any-roomy-tenty 2 apartmenty-or--place--used--or--represented--by--the--person ٦ soliciting--or-persuading-to-be-a-place-used-for-the-purpose 4 5 of-running-any-of-the-games-prohibited-by-this-part-shall-be punished-by-a-fine-of-not-less-than-\$100-or-more-than-\$17000 6 or-imprisonment-not-less-than-3-months-or-more-than--l--year 7 8 or--by-both-such-fine-and-imprisonment-in-the-county-jail; A person who advertises for or solicits another person to play 9 or engage in the use of an illegal gambling device is guilty 10 of a misdemeanor and is punishable under [section 23].* 11 NEW SECTION. Section 18. Obtaining anything of value 12

12 <u>NEW SECTION.</u> Section 10. Obtaining anything of value 13 by fraud or operation of illegal gambling device or 14 enterprise. (1) A person who by gambling obtains money, 15 property, or anything of value that does not exceed \$300 in 16 value by misrepresentation, fraud, or the use of an illegal 17 gambling device or an illegal gambling enterprise is guilty 18 of a misdemeanor and is punishable as provided in [section 19 23].

20 (2) A person who by gambling obtains money, property,
21 or anything of value that exceeds \$300 in value by
22 misrepresentation, fraud, or the use of an illegal gambling
23 device or an illegal gambling enterprise is guilty of a
24 felony and is punishable as provided in [section 24].

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25 NEW SECTION. Section 19. Gambling on cash basis. (1)

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In every gambling activity, EXCEPT RAFFLES AS AUTHORIZED IN 1 [SECTION 41], the consideration paid for the chance to play 2 must be cash. A participant shall present the money needed 3 to play the game as the game is being played. A check, 4 credit card, note, I O U, or other evidence of indebtedness 5 may not be offered or accepted as part of the price of 6 participation in the gambling activity or as payment of a 7 debt incurred in the gambling activity. 8

9 (2) A person who violates this section is guilty of a 10 misdemeanor and must be punished in accordance with [section 11 23].

12 <u>NEW SECTION.</u> Section 20. Minors not to participate --13 penalty. (1) A <u>PERSON MAY NOT PURPOSELY OR KNOWINGLY ALLOW A</u> 14 person under 18 years of age <u>may-not-be-permitted</u> to 15 participate in a gambling activity.

16 (2) A person who violates this section is guilty of a
17 misdemeanor and must be punished in accordance with [section
18 23).

Section 21. Section 23-5-103, MCA, is amended to read:
"23-5-103. Possession of illegal gambling implements
device prohibited -- exception. Any (1) Except as provided
in fsection-22? 23-5-104 and subsection (2) of this section,
it is a misdemeanor punishable under [section 23] for a
person who--has to PURPOSELY OR KNOWINGLY have in his
possession or under his control or who-permits to PURPOSELY

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1 OR KNOWINGLY permit to be placed, maintained, or kept in any room, space, enclosure, or building owned, leased, or 2 3 occupied by him or under his management or control any-fare box---faro--layout---roulette--wheel--roulette--table-crap 4 table--punchboard--or-any-machine-or-apparatus-of--the--kind 5 6 mentioned--in--23-5-102--is-punishable-by-a-fine-of-not-less than-\$100-or-more-than-\$17000-and-may-be-imprisoned-for--not 7 8 less--than-3-months-or-more-than-1-year-in-the-discretion-of the-court,-provided-that-this-section-shall-not an illegal 9 10 gambling device. This section does not apply to a public officer or to a person coming into possession thereof of an 11 illegal gambling device in or by reason of the performance 12 13 of an official duty and holding the-same it to be disposed of according to law. 14

15 (2) (a) The department may adopt rules to license persons to manufacture gambling devices that are not legal for public play in the state and are manufactured only for export from the state.

19 (b) A person may not manufacture or possess an illegal 20 gambling device for export from the state without having 21 obtained a license from the department. The department may 22 charge an administrative fee for the license that is 23 commensurate with the cost of issuing the license."

Section 22. Section 23-5-104, MCA, is amended to read:
 "23-5-104. Stot--machines-----possession--unlawful---

1 exception Possession of antique slot machines. (1) Except-as 2 provided-in-subsections-(2)--through--(5)7--it--shall--be--a 3 misdemeanor--and--punishable-as-hereinafter-provided-for-any 4 person-to-usez-possessz-operatez-keepz-or-maintain--for--use or--operation--or--otherwise,--anywhere--within-the-state-of 5 6 Montana-any-slot-machine-of-any-sort-or-kind-whatsoever-7 +27--The-provisions-of-subsection-(1)-and--23-5-121--do 8 not--apply--to-antique-slot-machines-possessed7-located7-and used-in-accordance-with-subsections-{2}-through-{5}:-For-the 9 purposes-of-subsections-(2)-through--(5)7--an--antique--slot 10 11 machine--is--a--slot-machine-manufactured-prior-to-19507-the operation-of-which-is-exclusively-mechanical-in--nature--and 12 13 is-not-mided-in-whole-or-in-part-by-any-electronic-meansy An antique slot machine is a slot machine manufactured prior to 14 1950 that is operated exclusively by mechanical means and is 15 not aided in whole or in part by any electrical means. 16 (3)(2) Except as provided in subsection (4)(3), an 17 18 antique slot machines machine may be possessed, located, and operated only in a private residential dwelling. 19 20 (4)(3) Antique-slot-machines An antique slot machine may be possessed or located for purposes of display only and 21 not for operation in any public museum owned and operated by 22 23 the state of-Montana, or a county, or a city.

24 (5)(4) No antique slot machine may be operated for any
 25 commercial or charitable purpose."

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NEW SECTION. Section 23. Criminal liabilities -misdemeanor. A person who purposely or knowingly violates a
provision of parts 1 through 6 of this chapter, the
punishment of which is for a misdemeanor, must₇ upon
conviction₇ be fined not less than \$500 or more than \$5,000₇
or imprisoned for not more than 1 year, or both, for each
violation.

8 NEW SECTION. Section 24. Criminal liabilities ___ 9 felony. A person who purposely or knowingly violates a provision of parts 1 through 6 of this chapter, the 10 11 punishment for which is a felony, may upon conviction be 12 fined not more than \$50,000 or imprisoned for not more than 13 10 years, or both, for each violation. However, if the 14 person previously has been convicted of a felony involving 15 а gambling device, gambling activity, or gambling 16 enterprise, he must be imprisoned for at least 2 years.

17 NEW SECTION. Section 25. Prosecution. The county attorney of the county in which a violation of a provision 18 19 of parts 1 through 6 of this chapter occurs shall prosecute 20 all gambling actions within the jurisdiction of the 21 department. However, if the county attorney declines 22 prosecution or fails to commence an action within a 23 reasonable time, the attorney general may initiate and 24 conduct the prosecution on behalf of the state.

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Section 26. Section 23-5-311, MCA, is amended to read:

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1	"23-5-311. Authorized card games. (1)-It-is-unlawful
2	for-any-person-to-conduct-or-participate-in-any-card-game-or
3	make-any-tables-available-fortheplayingofcardgames
4	except-those-card-games-authorized-by-this-part-
5	<pre>f2;(1) The card games authorized by this part are and</pre>
6	are limited to the card games known as bridge, cribbage,
7	hearts, panguingue, pinochle, pitch, poker, rummy, solo, and
8	whist7-solo7-and-poker.
9	(2) A person may only conduct or participate in a live
10	card game or make a live card game table available for
11	public play of a live card game that ONLY IF IT is
12	specifically authorized by this part and described by
13	department rules.
14	(3) This part does not apply to games simulated on
15	electronic video gambling machines authorized under part 6
16	of this chapter."
17	NEW SECTION. Section 27. Presence and control of
18	dealer. A live card game may not be played except on a live
19	card game table in the presence and under the control of a
20	licensed dealer on the premises of a licensed operator.
21	NEW SECTION. Section 28. Card game dealers
22	license. (1) A person may not deal cards in a live card game
23	without being licensed annually by the department.
24	(2) The fee for each year in which the license is
25	effective must be commensurate with the administrative costs

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associated with dealer licensing as established by
 department rules. The fee may not be prorated.

3 (3) The department shall retain for administrative
4 purposes the license fee charged for the issuance of a
5 dealer's license.

6 (4) A licensed dealer shall have on his person, and
7 display upon request, his dealer's license when he is
8 working as a dealer.

9 (5) The department may adopt rules to implement 10 temporary licensing procedures until a permanent license is 11 issued to a dealer. The department may delegate the 12 authority to issue temporary licenses to local governments 13 including the authority to assess and retain a fee for the 14 temporary license.

NEW SECTION. Section 29. Live card game table --15 permit -- fees -- disposition of fees. (1) A person who has 16 17 been granted an operator's license under [section 11] and a license under 16-4-401(2) to sell alcoholic beverages for 18 consumption on the premises OR-WHO-OPERATES-AN-ESTABLISHMENT 19 POR--THE-PRINCIPAL-PURPOSE-OF-GAMING-AND-HAS-BEEN-GRANTED-AN 20 21 OPERATOR'S-bicense-UNDER-fSECTION--111 may be granted an 22 annual permit for the placement of live card game tables. 23 (2) The annual permit fee in lieu of taxes for each 24 live card game table operated in a licensed operator's

25 premises may not be prorated and must be:

(a) \$250 for the first table;

(b) \$750 for the second table; and

(c) \$1,000 for the third and each additional table.

4 (3) The department shall retain for administrative 5 purposes \$100 of the fee collected under this part for each 6 live card game table.

7 (4) The department shall forward on a guarterly basis R the remaining balance of the fee collected under subsection 9 (2) to the treasurer of the county, or the clerk, finance 10 officer, or treasurer of the city or town in which the live 11 card game table is located for deposit to the county or municipal treasury. A COUNTY IS NOT ENTITLED TO PROCEEDS 12 13 FROM FEES ASSESSED ON LIVE CARD GAME TABLES LOCATED IN 14 INCORPORATED CITIES AND TOWNS WITHIN THE COUNTY. The--tocat 15 government--portion--of-this-fee-is-statutorily-appropriated to-the-department-as-provided-in-17-7-502-for-deposit-to-the 16 17 county-or-municipal-treasury-18 Section 30. Section 23-5-321, MCA, is amended to read: 19 "23-5-321. Hicensing Issuance of permits by local

19 "23-5-321. Bicensing <u>Issuance of permits</u> by local 20 governing bodies <u>prohibited</u>. (i)-Any <u>A</u> city, town, or county 21 may <u>not</u> issue licenses <u>permits</u> for the <u>live card</u> games 22 provided-for <u>or live card game tables authorized</u> in this 23 part. to--be-conducted-on-premises-which-have-been-licensed 24 for-the-sale-of-liquory-beer7-food7-eigarettes7-or-any-other 25 consumable--products7--Within--the--eities--or--towns7--such

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1 licenses--may--be--issued--by--the--city--or-town-council-or commission--bicenses-for-games-conducted-on-premises-outside 2 the-limits-of-any-city-or-town-may-be-issued-by--the--county 3 4 commissioners-of-the-respective-counties--When-a-license-has 5 been--required--by--any--city;--town;--or-county;-no-game-as 6 provided-for-in-this-part-shall-be-conducted-on-any-premises 7 which-have-been-licensed-for-the-sale-of-liquory-beery-foody 8 eigarettes;-or-any-other--consumable--product--without--such 9 license-having-first-been-obtained-10 (2)--Any--governing--body--may-charge-an-annual-license fee-for-each--license--so--issued--under--this--party--which 11 license-fee,--if-any,-shall-expire-on-June-30-of-each-year, 12 13 and-such-fee-shall-be-prorated-14 (3)--Any-license-issued-pursuant-to-this-part-shall--be 15 deemed--to--be--a-revocable-privilege--and-no-holder-thereof 16 may-acquire-any-vested-rights-therein-or-thereunder-"

Section 31. Section 23-5-312, MCA, is amended to read: "23-5-312. Prizes not to exceed one three ONE THREE hundred dollars. No-prize--for--any-individual-game-shall exceed-the-value-of-\$100+ A prize for an individual live card game may not exceed the value of \$300 \$100 \$300. Games shall may not be combined in any manner so as to increase the value of the ultimate prize awarded."

24 <u>NEW SECTION.</u> Section 32. Live card game tables - 25 hours of play -- restriction ---exception. Live card game

1 tables must be closed for play between the hours of 2 a.m.
2 and 8 a.m. each day. Howevery--in--the--jurisdiction--of--a
3 tocal--government--where--the--table--is--tocatedy-the-tocat
4 government-may-adopt-an-ordinance-defining-the-hours-of-play
5 within-that-jurisdiction;

Section 33. Section 23-5-313, MCA, is amended to read: 6 *23-5-313. Rules of play to be posted -- rake-off 7 approved. Rules governing the conduct of each game shall 8 9 must be prominently posted within the sight of the players at a live card game table on the premises of any-licensed 10 establishment--where--such--game--is--conducted a licensed 11 operator. Such The rules shall must include notice of the 12 maximum percentage rake-off, if any, and shall must require 13 14 that the person taking the rake-off do so in an obvious manner and--only--after--announcing--the--amount--of---each 15 rake-offy--which--shall--only--be-taken-at-the-conclusion-of 16 each-game-when-the-winner-of-each-individual--pot--has--been 17 determined." 18

Section 34. Section 23-5-331, MCA, is amended to read: 20 *23-5-331. Penalty. Every <u>A</u> person who willfully 21 <u>purposely or knowingly violates or who procures</u>, aids, or 22 abets in the--willful <u>a</u> violation of this part or any 23 ordinance, resolution, or regulation <u>rule</u> adopted pursuant 24 thereto--shall--be--deemed <u>to this part is</u> guilty of a 25 misdemeanor and-upon-conviction-shall-be-punished-by-a--fine

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1 of--not--more-than-\$17000-or-imprisonment-in-the-county-jail 2 for-not-more-than-3-months7-or-both punishable pursuant to 3 [section 23]."

<u>NEW SECTION.</u> Section 35. Authorized live bingo, keno,
and raffles. (1) A person may only conduct or participate in
a live bingo and keno game or raffle <u>ONLY IF IT IS</u> operated
pursuant to this part.

8 (2) This part does not apply to a game simulated on a 9 video gambling machine authorized by part 6 of this chapter, NEW SECTION. Section 36. Exempt 10 charitable organizations. An organization gualified for exemption under 11 26 U.S.C. 501(c)(3) and (c)(4) is exempt from the taxation 12 and license fees imposed by this part. The organization 13 14 shall comply with other statutes and rules relating to the operation of live bingo and keno or raffles. A qualified 15 organization shall apply to the department for a cost-free 16 17 permit to conduct charitable live bingo and keno games or raffles. THE DEPARTMENT MAY REVOKE OR SUSPEND THE PERMIT OF 18 A OUALIFIED ORGANIZATION THAT, AFTER INVESTIGATION, THE 19 DEPARTMENT DETERMINES IS CONTRACTING WITH A NONOUALIFIED 20 ORGANIZATION TO OPERATE LIVE BINGO, KENO, OR RAFFLES IN A 21 22 PREDOMINANTLY COMMERCIAL MANNER. NEW SECTION. Section 37. Bingo and keno callers ---23

24 qualifications -- license -- fee. (1) A person may not act 25 as a bingo or keno caller without being licensed annually by 1 the department.

2 (2) The fee for each year in which the license is
3 effective must be commensurate with the costs associated
4 with bingo or keno caller licensing as established by
5 department rules. The fee may not be prorated.

6 (3) The department shall retain for administrative
7 purposes the license fee charged for the issuance of a bingo
8 or keno caller's license.

9 (4) A bingo or keno caller shall have on his person,
10 and display upon request, his bingo or keno caller's license
11 whenever he is working as a bingo or keno caller.

12 (5) The department may adopt rules to implement 13 temporary licensing procedures until a permanent license is 14 issued. The department may delegate the authority to issue 15 temporary licenses to local governments, including the 16 authority to assess and retain a fee for a temporary 17 license.

18 <u>NEW SECTION.</u> Section 38. Live bingo or keno permit ---19 fees -- disposition of fees. (1) A person who has been 20 granted an operator's license may be granted an annual 21 permit by the department to conduct live bingo or keno games 22 on specified premises.

(2) The permit fee for each of the premises in which a
live bingo or keno game is conducted may not be prorated and
must be \$500.

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(3) The department shall retain the permit fee for
 administrative costs.

NEW SECTION. Section 39. Bingo and 3 keno dross proceeds tax -- records -- distribution -- quarterly 4 5 statement and payment. (1) A licensee who has received a permit to operate bingo or keno games shall pay to the 6 7 department a tax of 3% 5% of the gross proceeds from the 8 operation of each live bingo and keno game operated on his 9 premises.

10 (2) A licensee shall keep a record of gross proceeds 11 in the form the department requires. At all times during the 12 business hours of the licensee the records must be available 13 for inspection by the department.

14 (3) A licensee shall, within 15 days after the end of 15 each quarter, complete and deliver to the department a 16 statement showing the total gross proceeds for each live 17 keno or bingo game operated by him and the total amount due 18 as live bingo or keno gross proceeds tax for the preceding 19 quarter. This statement must contain any other relevant 20 information required by the department.

21 (4) The department shall forward the tax collected 22 under subsection (3) to the treasurer of the county or the 23 clerk, finance officer, or treasurer of the city or town in 24 which the licensed game is located for deposit to the county 25 or municipal treasury. A county is not entitled to proceeds SB 0431/04

1 taxes on live bingo or keno games located in from 2 unincorporated INCORPORATED cities and towns within the county. The---tax---collected---under--subsection--+3)--is 3 statutorily-appropriated-to-the-department--as--provided--in 4 17-7-582-for-deposit-to-the-county-or-municipal-treasury-5 6 Section 40. Section 23-5-412, MCA, is amended to read: "23-5-412. Bingo Card prices and prizes. The price for 7 8 an individual bingo or keno card may not exceed 50 cents. 9 Bingo prizes may be paid in either tangible personal 10 property or cash---except--that--a--prize--must-be-paid-in 11 tangible-personal-property--if--the--game--is--played--on--a player-operated--electronic-video-game-machine. A prize may 12 not exceed the value of \$100 \$100 for each individual 13 bingo award or keno card. The-price-for-an-individual-bingo 14 card-may-not-exceed-50-cents. It shall-be is unlawful to, in 15 16 any manner, combine any awards so as to increase the 17 ultimate value of such the award." Section 41. Section 23-5-413, MCA, is amended to read: 18 "23-5-413. Raffle prizes restricted-----exemption --19 20 PERMITS -- EXCEPTION. (1) Raffle prizes must-be-in-tangible 21 personal-property-only--and--not--in--money--cash---stocks-22 bonds7---evidences--of--indebtedness7--or--other--intangible 23 personal-property-and must not exceed the value of \$1,000 24 for each individual raffle card ticket. It shall-be is 25 unlawful to, in any manner, combine any awards so as to

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increase the ultimate value of such-award the prize awarded ł 2 for each ticket. 3 (2) A separate permit must be issued by the board of 4 county commissioners for each raffle conducted within its 5 jurisdiction. The permit must be issued before the raffle 6 may be conducted. A person who has conducted a raffle must 7 submit an accounting to the board of county commissioners я within 30 days following the completion of the raffle. The 9 sale of raffle tickets authorized by this part is restricted to events and participants within the geographic confines of 10 11 the state. 12 (2)(3) (a) The restrictions of subsection (1) do not 13 apply to a raffle conducted by a nonprofit corporation, 14 religious corporation sole, or other nonprofit organization 15 when if the corporation or organization is licensed permitted by the board of county commissioners to conduct 16 17 the raffle. A--separate-license-shall-be-required-for-each

18 raffle-conducted.

(b) The <u>nonprofit</u> organization or corporation seeking
the-license <u>permission</u> under subsection (2)(3)(a) must shall
apply to the board of county commissioners for the license
permit and must provide the following information:

23 (i) the cost and number of raffle tickets to be sold;
24 (ii) the charitable purposes the proceeds of the raffle
25 are intended to benefit; and

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(c) The proceeds from the sale of the raffle tickets
are--to may be used only for charitable purposes or to pay
for prizes. The raffle prize must be in tangible personal
property only and not in money, cash, stock, bonds, evidence
of indebtedness, or other intangible personal property. None
of the proceeds may be used for the administrative cost of
conducting the raffle.

(iii) the proposed prizes and their value.

9 (d)--The-corporation--or-organization--conducting--the 10 raffie--must--submit--an--accounting--to-the-board-of-county 11 commissioners-within-30-days-following-the-completion-of-the raffle-The-person-or-persons-submitting-the-application--to 12 13 the-board-of-county-commissioners-along-with-the-corporation 14 or--organization--conducting-the-raffle-shall-be-responsible 15 for--submitting--the--accounting--to--the--board--of--county 16 commissioners-"

Section 42. Section 23-5-414, MCA, is amended to read: 23-5-414. Restrictions on bingor and kenor-and-raffles ---bingo-or-keno-machines-in-establishment-limit----hours-of operation----exception. (1) In the playing of live bingo or keno, no a person who is not physically present on the premises where the game is actually conducted shall may not be allowed to participate as a player in the game.

24(2)--Raffles--authorized--by---this---part---shall---be25restricted--to-events-and-participants-within-the-geographic

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1	confines-of-the-state-of-Montana.
2	<pre>t3)Noestablishmentmayreceivelicensesunder</pre>
3	23-5-421foror-make-available-for-play-more-than-15-bingo
4	or-keno-machinesAlocalgoverningbodyhowevermay
5	restrictthe-number-of-licensed-machines-available-for-play
6	in-an-establishment-to-less-than-157-but-must-allow-at-least
7	S
8	<pre>(4){a}-Except-as-provided-insubsection{4};b;an</pre>
9	establishmentthatreceivesalicense-to-make-a-bingo-or
10	keno-machine-available-for-play-must-have-themachineshut
11	offeachdayduringthehoursprovided-in-16-3-304-for
12	closureoflicensedretailalcoholicbeverage
13	establishments-
14	<pre>tb}Alocal-governing-body-may-establish-any-hours-of</pre>
15	play-for-bingo-or-keno-machines-that-it-determinesproper-"
16	NEW SECTION. Section 43. Hours of play
17	restrictionspenalty. (1) A live bingo or keno game must
18	be closed for play between the hours of 2 a.m. and 8 a.m. of
19	each day. Howevery-in-the-jurisdiction-of-a-local-government
20	wherethelivebingoorkenogame-is-played7-the-local
21	government-may-adopt-an-ordinance-definingotherhoursof
22	play-within-that-jurisdiction.
23	{2}Aviolationofthissectionisa-misdemeanor
24	punishable-under-{section-23}.
25	Section 44. Section 23-5-431, MCA, is amended to read:

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1	*23-5-431. Penalty Criminal penalty. Every A person
2	who willfully purposely or knowingly violates or who
3	procures, aids, or abets in the-willful a violation of this
4	part or any ordinance, resolution, or regulation rule
5	adopted pursuant thereto-shall-be-deemed to this part is
6	guilty of a misdemeanor anduponconvictionshallbe
7	punished-by-a-fine-of-not-more-than-\$1,000orimprisonment
8	inthecountyjailfornotmore-than-3-monthsy-or-both
9	punishable pursuant to [section 23]."

Section 45. 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 gambling machine,
including but not limited to integrated circuit chips,
printed wired assembly, printed wired boards, printing
mechanisms, video display monitors, and metering devices,
and cabinetry.

20. (2)--"Bepartment"-means-the-department-of-commerce.

21 (2) "Bingo machine" means an electronic video gambling
22 machine that, upon insertion of cash, is available to play
23 bingo as defined by rules of the department. The machine
24 utilizes a video display and microprocessors in which, by
25 the skill of the player, by chance, or both, the player may

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1	receive free games or credits that may be redeemed for cash.
2	The term does not include a slot machine or a machine that
3	directly dispenses coins, cash, tokens, or anything else of
4	value.
5	(3) "Draw poker machine" means an electronic video
6	gambling machine that, upon insertion of cash, is available
7	to play or simulate the play of the game of draw poker τ as
8	defined by rules of the department. The machine utilizes a
9	video display and microprocessors in which, by the skill of
10	the player, by chance, or both, the player may receive free
11	games or credits that may be redeemed for cash. The term
12	does not include a slot machine or a machine that directly
13	dispenses coins, cash, tokens, or anything else of value.
14	<pre>+3+(4) "Keno machine" means an electronic video game</pre>
15	gambling machine that, upon insertion of cash, is available
16	to play or-simulate-the-play-of-the-game-of keno or-bingo as
17	providedinpart4of-this-chapter,-utilizing defined by
18	rules of the department. The machine utilizes a video
19	display and microprocessors, in which, by the skill of the
20	player, or by chance, or both, the player may receive free
21	games or credits that can <u>may</u> be redeemed for cash. The term
22	does not include a <u>slot machine or a</u> machine that directly
23	dispenses coins, cash, tokens, or anything else of value.
24	{4}"bicensed-establishment"-means:
25	ta)with-respect-to-the-licensure-of-keno-machines;-an

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1 establishment-that-is-licensed-to-sell--alcoholic--beverages 2 for-consumption-on-the-premises-or-an-establishment-licensed 3 under-23-5-421;-and 4 (b)--with--respect-to-the-licensure-of-wideo-draw-poker 5 machines,--an--establishment--that--is--licensed---to---sell 6 alcoholic-beverages-for-consumption-on-the-premises. 7 (5)--"bicensee"---means---an--individual;--partnership; 8 corporation,-or-association-that-has-been-issued--a--license 9 by--the--department-for-the-placement-and-operation-of-video draw--poker--machines--or--keno--machines--in--the--licensed 10 11 establishment--of--the-individual;-partnership;-corporation; 12 or-association-13 (6)--"Manufacturer-distributor"--means--an--individual; 14 partnership,--corporation,--or--association--that-assembles, 15 produces7-and-makes-or-supplies-video-draw-poker-machines-or 16 associated-equipment-for-saley-usey-or-distribution-in--this 17 state. 18 (7)(5) "Net machine income" means money put into a 19 video draw-poker-or-keno gambling machine minus credits paid 20 out in cash. 21 (8)--"Used-keno-machine"-means-a-keno-machine;-as--that 22 term--is-defined-in-this-section;-that-is-owned-or-possessed 23 by-an-applicant-on-the-day-he-applies-for-a-license-for--the

25 prior-to-June-307-1987-

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used--machine--and--that--was-owned-or-operated-in-the-state

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1	(9)"Used-video-draw-poker-machine"-means-a-video-draw
2	poker-machine;-as-that-termisdefinedinthissection;
3	whichisownedor-possessed-by-an-applicant-on-the-day-he
4	applies-for-a-license-for-the-usedmachineandwhichwas
5	owned-or-operated-in-the-state-prior-to-February-3,-1984-
6	(10)-"Videodrawpokermachine"means-an-electronic
7	videogamemachinethat7uponinsertionofcash7is
8	availabletoplay-or-simulate-the-play-of-the-game-of-draw
9	poker7-as-provided-in-this-part7-utilizing-avideodisplay
10	andmicroprocessors-in-which;-by-the-skill-of-the-player-or
11	by-chance;-or-both;-the-player-mayreceivefreegamesor
12	creditsthatcanberedeemed-for-cashThe-term-does-not
13	include-amachinethatdirectlydispensescoins7cash7
14	tokens,-or-anything-else-of-value.
15	(6) "Video gambling machine manufacturer-distributor"
16	means a person who assembles, produces, makes, supplies, or
17	repairs video gambling machines or associated equipment for
18	sale, use, or distribution in the state."
19	Section 46. Section 23-5-603, MCA, is amended to read:
20	"23-5-603. Video draw-poker-or-keno gambling machines
21	possession play hours-of-play restriction. (1)
22	No-person-may-place-an-electronic-videogamemachinethat
23	simulatesoroffers-a-game-of-poker;-bingo;-or-keno-in-his
24	licensed-establishment-unless-he-is-licensed-under-23-5-612.
25	A person may only make available for public play ONLY the
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1	video gambling machines specifically authorized by this
2	part.
3	(2) The video gambling machines specifically
4	authorized by this part are bingo, keno, and draw poker
5	machines. A-person-may-not-make-available-for-public-playa
6	videogambling-machine-unless-he-has-obtained-an-operatoris
7	ticense: Machines-licensed Only machines for which permits
8	have been granted under 23-5-612 are-legal, and it-is-legal
9	to-play-such-machines,-except-that-a-person-under-the-age-of
10	18-years-may-not-play-a-video-draw-poker-or-keno-machine <u>may</u>
11	be made available for play by the public on the premises of
12	a licensed operator.
13	(2)Bxceptasprovidedinsubsection(3);an
14	establishment-that-receives-a-license-to-make-avideodraw
15	pokermachine-available-for-play-must-have-the-machine-shut
16	off-each-day-duringthehoursprovidedin16-3-304for
17	closureoflicensedretailalcoholicbeverage
18	establishments.
19	(3)A-local-governing-body-may-establish-any-hoursof
20	playforvideodrawpokermachinesthatit-determines
21	propert
22	<pre>{4}The-provisions-of-part-3-of-thischapterdonot</pre>
23	applytoorprohibit-video-draw-poker-or-keno-machines-or
24	the-playing-of-such-machines."
25	Section 47. Section 23-5-611, MCA, is amended to read:

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1	*23-5-611. State-license Machine permit qualifications
2	limitationsright-to-hearing. (1) {a}-A-person-who-has
3	been-granted-a-license-under-16-4-401(2)-tosellalcoholic
4	beveragesforconsumption-on-the-premises-may-be-granted-a
5	license-for-the-placement-of-wideo-drawpokermachinesin
6	hislicensedestablishment: Onlya A person who has been
7	granted an operator's license under [section 11] and a
8	license under 16-4-401(2) to sell alcoholic beverages for
9	consumption on the premises OR-WHO-OPERATES-AN-ESTABLISHMENT
10	FOR-THE-PRINCIPAL-FURFOSE-OF-GAMING-AND-HAS-BEEN-GRANTEDAN
11	OPERATOR'SbicenseUNDER{SECTION11} may be granted a
12	permit for the placement of video gambling machines in his
13	premises. A PERSON WHO LEGALLY OPERATED AN ESTABLISHMENT ON
14	JANUARY-1 JANUARY 15, 1989, FOR THE PRINCIPAL PURPOSE OF
15	GAMING AND HAS BEEN GRANTED AN OPERATOR'S LICENSE UNDER
16	[SECTION 11] MAY BE GRANTED A PERMIT FOR THE PLACEMENT OF
17	BINGO AND KENO MACHINES IN HIS PREMISES.
18	<pre>tb}Eachapplicantforalicenseshallonthe</pre>
19	application-form-disclose-tothedepartmentanyprevious
20	experienceorinvolvementasanowneroroperatorof
21	gambling-devices-and-establishmentsPrevious-experienceor
22	involvement-includes:
23	(i)controllingofgamblingdevicesas-an-owner-or
24	operator;
25	<pre>tii)-employment-with-the-owner-or-operator-ofgambling</pre>

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1	devices;
2	(iii)-employmentinestablishmentswhere-gambling-is
3	offered-to-the-public;-and
4	tiv}-conviction-of-violation-of-state-or-local-gambling
5	laws-in-any-jurisdiction.
6	(2) An applicant for a permit shall disclose on the
7	application form to the department any information required
8	by the department consistent with the provisions of [section
9	10].
10	<pre>(2)(3) A licensee may not have on the premises or make</pre>
11	available for play on the premises ofhislicensed
12	establishment more than five 20 10 KENO AND BINGO machines
13	of any combination that-are-legal-underthispart AND 10
14	DRAW POKER MACHINES. Inthejurisdictionofalocal
15	government-where-wideo-gamblingmachinesareplayed;the
16	localgovernmentmayby-ordinance-or-resolution-limit-the
17	number-of-video-gambling-machines-to-no-less-thanfiveper
18	operator-premises: IN THE JURISDICTION OF A LOCAL GOVERNMENT
19	WHERE VIDEO GAMBLING MACHINES ARE PLAYED, THE LOCAL
20	GOVERNMENT MAY BY ORDINANCE OR RESOLUTION LIMIT THE NUMBER
21	OF VIDEO GAMBLING MACHINES TO NO LESS THAN FIVE PER OPERATOR
22	PREMISES AND NO MORE THAN ALLOWED BY THIS SECTION.
23	(3)A-person-denied-a-state-license-has-the-right-to-a
24	hearing-before-the-departments-The-hearing-must-be-conducted
25	inaccordancewiththeprovisionsoftheMontana

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1 Administrative-Procedure-Act-"

2 Section 48. Section 23-5-612, MCA, is amended to read: 3 '23-5-612. State-license Machine permits -- fee --4 used--keno-machines. (1) (a) The department, upon payment of 5 the fee provided in subsection (1)(b) (2) and in conformance 6 with rules adopted under 23-5-605 this part, shall issue to 7 the licensee operator a license permit for each video draw 8 poker-or-keno gambling machine.

(b)(2) The department shall charge an annual license 9 10 permit fee of \$100 \$200 for each video draw-poker-machine 11 and-\$100-for-each--keno gambling machine. The department shall retain \$100 of the total Hicense permit fee collected 12 13 for purposes of administering this part,--except--23-5-615. The remaining \$100 must be returned on a quarterly basis to 14 the local government jurisdiction in which the gambling 15 16 machine is located.

17 (3) The license permit expires on June 30 of each
18 year, and the fee may not be prorated.

19(2)--A--used--keno--machine--may--be---licensed---under20subsection--(1)-without-meeting-the-requirements-of-23-5-60921if--the--applicant--for--licensure--can--establish--to---the22satisfaction---of--the--department--that;--on--the--date--of23application;-he-owns-or-possesses-a-machine-that--was--owned24or--operated--in-the-state-prior-to-June-30;-1907;-A-license25issued-under-this-subsection-expires--for--all--purposes--no

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1 later-than-June-307-1989-*"

Section 49. Section 23-5-631, MCA, is amended to read: 2 3 "23-5-631. Examination and approval of new video draw 4 .ker gambling machines and associated equipment -- fee. (1) The department shall examine and may approve a new video 5 ÷ draw---poker---machines gambling machine and associated 7 equipment which is are manufactured, sold, or distributed for use in this the state before the video draw-poker 8 9 gambling machine or associated equipment is sold, played, or used. 10 11 (2) A video draw-poker gambling machine or associated 12 equipment may not be examined or approved by the department 13 until the video gambling machine manufacturer-distributor of 14 the-machine-or-associated-equipment is licensed as required 15 in 23-5-625. 16 (3) All video gambling machines approved by the 17 department of commerce prior to [the effective date of this 18 act] must be considered approved under this part.

19 (3)(4) The department shall require the 20 manufacturer-distributor seeking the examination and 21 approval of a new video draw--poker gambling machine or 22 associated equipment to pay the anticipated actual costs of the examination in advance and, after the completion of the 23

examination, shall refund overpayments or charge and collect
amounts sufficient to reimburse the department for

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2 (5) The department may inspect and test and approve, 3 disapprove, or place a condition upon a video gambling machine prior to its distribution and placement for play by 4 5 the public." NEW SECTION. Section 50. video 6 gambling machine 7 specifications -- rules. The department shall adopt rules describing the video gambling machines authorized by this 8

underpayments of actual costs.

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9 part and stating the specifications for video gambling 10 machines authorized by this part.

11 Section 51. Section 23-5-616, MCA, is amended to read: 12 "23-5-616. Removal of machine from public access. If a 13 machine fails to meet the specifications and requirements of 23-5-6067-23-5-6077-or-23-5-608 this part or any rule of the 14 15 department at any time after its initial licensure permit 16 has been issued, the licensee operator shall immediately 17 remove the machine from public access until it meets all 18 requirements."

19 Section 52. Section 23-5-625, MCA, is amended to read: 20 "23-5-625. Manufacturer-distributor---of---video--draw 21 poker----machines Video gambling machine manufacturer-distributor -- license -- fees. (1) It is 22 23 unlawful for any person to assemble, produce, manufacture, sell7--or--distribute supply, or repair any video draw-poker 24 25 gambling machine or associated equipment for use or play in this the state without having first been issued a video
 gambling machine manufacturer-distributor's license by the
 department.

4 (2) The department shall charge an annual license fee
5 of \$1,000 for the issuance or renewal of a <u>video gambling</u>
6 <u>machine manufacturer-distributor's license.</u>

7 (3) In addition to other license fees, the department 8 may charge the applicant a one-time <u>video gambling machine</u> 9 manufacturer-distributor's license application processing 10 fee. The processing fee may not exceed the department's 11 actual costs for processing an application.

12(4) Allvideogamblingmachine13manufacturer-distributor's licenses expireonJune30of14each year, and the license fee may not be prorated.

15 (5) The department shall retain the license and
16 processing fees collected for purposes of administering this
17 part, except-23-5-645 unless otherwise provided."

18 Section 53. Section 23-5-610, MCA, is amended to read:

19 "23-5-610. Video draw-poker-and-keno gambling machine 20 net income tax -- records -- distribution -- quarterly 21 statement and payment. (1) Each <u>A</u> licensee <u>AN OPERATOR</u> 22 <u>ISSUED A PERMIT UNDER THIS PART</u> shall pay to the department 23 a video draw-poker-and-keno gambling machine tax of 15% of 24 net machine income from each video draw-poker-and-keno 25 gambling machine licensed under this part.

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1 (2) Bach A licensee AN OPERATOR ISSUED A PERMIT UNDER 2 THIS PART shall keep a record of net machine income in such 3 form as the department may require. The records must at all 4 times during the business hours of the licensee be subject to inspection by the departmenty-its-agentsy--or--employees. -5 -6 (3) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER 7 THIS PART shall, within 15 days after the end of each 8 quarter, complete and deliver to the department a statement 9 showing the total net machine income from each video draw 10 poker--and--kene gambling machine licensed to him, together with the total amount due the state as video draw-poker--and 11 12 keno gambling machine net income tax for the preceding 13 guarter. The statement must contain such other relevant 14 information as the department may require.

15 (4) (a) The department must--deposit shall forward
16 one-third of the tax collected under subsection (3) in to
17 the general fund.

18 (b) The department must shall forward the remaining 19 two-thirds of the tax collected under subsection (3) to the 20 treasurer of the incorporated county or the clerk, finance 21 officer, or treasurer of the city or town in which the 22 licensed machine is located, for deposit to the county or 23 municipal treasury. Counties are not entitled to proceeds 24 from taxes on income from video draw-poker-and-keno gambling 25 machines located in incorporated cities and towns. The SB 0431/04

1	two-thirds local government portion of tax collected under
2	subsection (3) is statutorily appropriated to the department
3	as provided in 17-7-502 for deposit to the county or
4	"Laicipal treasury."
5	Section 54. Section 23-5-608, MCA, is amended to read:
£	*23-5-608. Limitation on amount of money played and
7	value of prizes payment of credits in cash. (1) A video
8	draw-poker-or-keno gambling machine may not allow more than
9	\$2 to be played on a game or award free games or credits in
10	excess of the value-of-\$100-per-hand following amounts:
11	(a) \$100 a-hand-or-\$800 a game for a video draw poker
12	machine; and
13	(b) \$800 a game for a video keno or bingo machine.
14	(2) Each <u>A</u> licensee shall pay in cash all credits owed
15	to a player as shown on a valid ticket voucher provided-in
16	23-5-686t4)tk;"
17	Section 55. Section 23-5-607, MCA, is amended to read:
18	*23-5-607. Expected payback verification. The
19	department shall prescribe the expected payback value of one
20	credit played awarded to be at least 80% of the value of a
21	one credit played. Each viduo draw-poker-orkeno gambling
22	machine must have an electronic accounting device that the
23	department may use to verify the winning percentage. The
24	departmentmaynot-publish-or-otherwise-disseminate-income

25 figures--and--other--statistics--obtained--in--the---payback

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imposed misdemeanor punishable under [section 23].

offense;-and-a-fine-not-to--exceed--\$10,000--for--the--first violation--and--\$15,000--for--a-subsequent-violation-must-be

1	verificationprocessorcontained-in-payback-verification	1
2	reports-in-amannerthatallowsorhelpsapersonto	2
, 3	identifyaparticularmachineortomatch-a-particular	3
4	machine-with-a-particular-income-or-statistic-"	4
5	NEW SECTION. Section 56. Video gambling machines	5
6	hours of playpenalty. (1) A video gambling machine may	6
7	not be played between the hours of 2 a.m. and 8 a.m. each	7
8	day. However7inthejurisdictionof-a-local-government	8
9	where-thevideogamblingmachineisplayed;thelocal	9
10	government-may-adopt-an-ordinance-defining-the-hours-of-play	10
11	within-that-jurisdiction.	11
12	t2)Aviolationofthissectionisa-misdemeanor	12
13	punishable-under-{section-23}-	13
14	Section 57. Section 23-5-613, MCA, is amended to read:	14
15	*23-5-613. Investigations-andviolations Violations.	15
16	{}}Thedepartmentordulyauthorizeddepartment	16
17	representatives-shall-make-necessary-investigations,-suspend	17
18	or-revoke-state-licenses-for-violations-of-this-part-except	18
19	23-5-6157-and-hold-hearings-on-such-matters,-Alicensemay	19
20	besuspended-prior-to-a-hearing-upon-a-finding-of-danger-to	20
21	public-health-and-welfare-but-may-not-be-revokeduntilthe	21
22	hearing-is-completed.	22
		23
23	(2)A Unless otherwise provided in this part, a	24
24	violation of this part7-except23-5-615, or a rule	25
25	promulgated under23-5-605 by the department is a criminal	

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4	(3)If-a-videodrawpokermachineisoperatedin
5	violationofthispart;-except-23-5-615;-it-may-be-seized
6	under-23-5-121-and-the-provisions-of-23-5-122-apply.
7	<pre>t4)Employees-of-thedepartmentordulyauthorized</pre>
8	departmentrepresentatives-designated-as-enforcement-agents
9	may-investigate-the-background-of-license-applicants-tothe
10	extent-judged-necessary-by-the-department;-but-no-person-may
11	beinvestigatedpriorto-his-submission-of-an-application
12	for-a-license:
13	(5)(a)-Pindings-of-suspected-illegal-activity-must-be
14	reported-to-the-appropriate-law-enforcement-agency-
15	<pre>(b)The-clerk-of-the-court-shall;-upon-finaljudgment</pre>
16	ofconvictionofa-licensee;-report-to-the-department-the
17	name-of-the-licensee-convicted-of-violating-a-local-gambling
18	ordinance.
19	(c)On-receipt-ofsuchreport;thedepartmentmay
20	commenceproceedingstorevokeor-suspend-the-licensee's
21	video-draw-poker-license-
22	(6)Any-peace-officerofthisstatemayarresta
23	personfortamperingwithavideodrawpoker-machine;

24 attempting-or-conspiring-to-manipulate-the--outcome--or--the 25 payoff--of--a--video-draw-poker-machine--or-manipulating-the

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outcome-or-payoff-of-a-video-draw-poker-machine-by--physical
 tampering--or-other-interference-with-the-proper-functioning
 of-the-machiner"

4 NEW SECTION. Section 58. Tampering with or 5 manipulating video gambling machine -- penalty. (1) It-is-a felony-to A PERSON COMMITS THE OFFENSE OF TAMPERING WITH A 6 7 VIDEO GAMBLING MACHINE IF HE PURPOSELY OR KNOWINGLY manipulate MANIPULATES or attempt ATTEMPTS or conspire 8 9 CONSPIRES to manipulate the outcome or payoff of a video 10 gambling machine by physical tampering or other interference 11 with the proper functioning of the machine.

12 (2) A violation of this section is a felony and must13 be punished in accordance with (section 24).

14 Section 59. Section 23-5-503, MCA, is amended to read: 15 "23-5-503. Rules. (1) The card used for recording the 16 pool and upon which the squares or spaces appear shall 17 clearly state <u>indicate</u> in advance of the sale of any chances 18 the number of chances to be sold in that specific pool, the 19 name of the event, the consideration to be paid for each 20 chance, and the total amount to be paid to the winners.

21 (2) No <u>A</u> chance to participate in a sports pool may 22 <u>not</u> be sold other than upon the premises in which the sports 23 pool is conducted. No <u>An</u> individual chance to participate in 24 a sports pool shall <u>may not</u> be sold for a consideration in 25 excess of $\frac{1}{210}$ $\frac{1}{210}$ $\frac{1}{25}$, and the total amount to be paid to SB 0431/04

1 the winners of any individual sports pool shall may not 2 exceed the value of \$100 \$500. The winner of any sports pool 3 shall receive a 100% payout of the value of the sports 4 receive.

Section 60. Section 23-5-509, MCA, is amended to read: 5 *23-5-509. Penalty. Every A person who willfully 6 purposely or knowingly violates or who procures, aids, or 7 abets in the-willful a violation of this part shall-be 8 deemed is guilty of a misdemeanor and-upon-conviction-shall 9 be--punished--by--a--fine--of--not--more--than---\$1,000---or 10 imprisonment--in-the-county-jail-for-mot-more-than-3-months; 11 or-both punishable pursuant to [section 23]." 12 Section 61. Section 23-5-1101, MCA, is amended to 13

14 read: 15 "23-5-1101. Definition. As used in this part. "Calcutta pool" means a form of auction pool in--which 16 persons--bid--or-wager-money;-with-winnings-awarded-based-on 17 the-outcome--of--an--eventy--except--that conducted by an 18 organization gualified for exemption under 26 U.S.C. 19 501(c)(3) or (c)(4) and authorized by the department. The 20 21 Calcutta pool must be an auction pool in which: 22 (1) a person's wager is equal to his bid; (2) the organization conducting the pool has an direct 23 interest in the pool; 24

25 (3) the rules of the pool are publicly posted;

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1	(4) no more than one wager for each competitor is
2	allowed;
3	(5) at least 50% of the total pool is paid out in
4	prizes;
5	(6) persons may not bid or wager money on any
6	elementary school or high school sports event; and
7	(7) the underlying event has more than two entrants."
8	Section 62. Section 23-5-1105, MCA, is amended to
9	read:
10	*23-5-1105. Penalty. Any A person who violates a
11	provision of this part is guilty of a misdemeanor and-upon
12	conviction-shall-be-fined-not-more-than-\$1,000-or-imprisoned
13	in-the-county-jail-for-a-term-not-toexceed3months;or
14	both punishable pursuant to [section 23]."
15	Section 63Section-17-7-5027-MCA7-is-amended-to-read:
16	#17-7-582Statutoryappropriationsdefinition
17	requisites-for-validity(1)-A-statutoryappropriationis
18	anappropriationmadebypermanentlawthat-authorires
19	spending-by-a-state-agency-without-the-need-forabiennial
20	legislative-appropriation-or-budget-amendment.
21	(2) Exceptasprovidedinsubsection(4)tobe
22	effective;-a-statutory-appropriation-must-complywithboth
23	of-the-following-provisions:
24	<pre>fatThe-law-containing-the-statutory-authority-must-be</pre>
25	listed-in-subsection-(3);

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1	{b}Thelawor-portion-of-the-law-making-a-statutory
2	appropriationmustspecificallystatethatastatutory
3	appropriation-is-made-as-provided-in-this-section-
4	<pre>(3)Thefollowinglawsare-the-only-laws-containing</pre>
5	statutoryappropriations:2-9-202;2-17-105;2-18-812;
6	10-3-203;10-3-312;10-3-314;10-4-301;13-37-304;
7	£5-25-£23;£5-3£-702;£5-36-££2;£5-65-£2£;£5-70-£0 };
8	16-1-404;16-1-410;-16-1-411;-17~3-212;-17~5-404;-17-5-424;
9	±7~5-804;±9-8-504;±9-9-702;±9-9-±007;±9-±0-205;
10	±9-±0-305;±9-±0-506;±9-±1-5±2;±9-±±-5±3;±9-±±-606;
11	19-12-301;19-13-604;20-4-109;20-6-406;20-8-111;
12	23-5-610;{section-29};-{section-39};-23-5-1027;-33-31-212;
13	33-31-401;37-51-501;39-71-2504;53-6-150;53-24-206;
14	67-3-205;75-1-1101;75-7-305;76-12-123;80-2-103;
15	80-2-228;-82-11-136;-90-3-301;-90-3-302;-90-3-412;-90-4-215;
16	90-9-306;-90-15-103;-section-13;-House-Bill-No;-861;-Laws-of
17	19857-and-section-17-Chapter-4547-Baws-of-1987-
18	(4)There-is-astatutoryappropriationtopaythe
19	principal;-interest;-premiums;-and-costs-of-issuing;-paying;
20	and-securing-all-bonds;-notes;-or-other-obligations;-as-due;
21	that-have-been-authorized-and-issued-pursuant-to-the-laws-of
22	MontanaAgenciesthathaveenteredintoagreements
23	authorizedbythetawsofMontanatopaythestate
24	treasurer7fordeposit-in-accordance-with-17-2-101-through

- 25 17-2-107;-as-determined-by-the-state--treasurer;--an--amount
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1	sufficienttopay-the-principal-and-interest-as-due-on-the
2	bonds-or-notes-have-statutoryappropriationauthorityfor
3	such-payments fIn-subsection-f3;pursuant-to-sec157-Ch-
4	6077-b7-19877-the-inclusion-of-15-65-121-terminates-June-307
5	1989;pursuantto-sec:-10;-Ch:-664;-b1987;-the-inclusion
6	of-39-71-2584-terminates-June-387-1991;-and-pursuant-to-sec.
7	67-Ch4547-b19877-the-inclusion-of-sect-l7Ch4547b-
8	19877-terminates-July-17-1988;;"
9	NEW SECTION. SECTION 63. EXEMPTION FROM SUNRISE
10	PROVISIONS. THE PROVISIONS OF TITLE 2, CHAPTER 8, PART 2,
11	AND 5-4-207 DO NOT APPLY TO [THIS ACT].
12	NEW SECTION, SECTION 64. GAMING ADVISORY COUNCIL
13	ALLOCATION COMPOSITION COMPENSATION ANNUAL REPORT.
14	(1) THERE IS A GAMING ADVISORY COUNCIL.
15	(2) THE GAMING ADVISORY COUNCIL IS ALLOCATED TO THE
16	DEPARTMENT FOR ADMINISTRATIVE PURPOSES ONLY AS PRESCRIBED IN
17	<u>2-15-121.</u>
18	(3) THE GAMING ADVISORY COUNCIL CONSISTS OF NINE
19	MEMBERS. ONE MEMBER MUST BE FROM THE SENATE, AND ONE MEMBER
20	MUST BE FROM THE HOUSE OF REPRESENTATIVES. THE SENATE
21	COMMITTEE ON COMMITTEES AND THE SPEAKER OF THE HOUSE OF
22	REPRESENTATIVES SHALL APPOINT THE LEGISLATIVE MEMBERS OF THE
23	COUNCIL. THE SEVEN REMAINING MEMBERS MUST BE APPOINTED BY
24	THE DEPARTMENT, WITH TWO REPRESENTING THE PUBLIC AT LARGE,
25	TWO REPRESENTING LOCAL GOVERNMENTS, AND THREE REPRESENTING

1	THE GAMING INDUSTRY.
2	(4) EACH GAMING APVISORY COUNCIL MEMBER IS APPOINTED
3	TO A 2-YEAR TERM OF OFFICE. A MEMBER OF THE COUNCIL MAY BE
4	MEMOVED FOR GOOD CAUSE BY THE APPOINTING BODY PROVIDED FOR
5	IN SUBSECTION (3).
6	(5) THE GAMING ADVISORY COUNCIL SHALL APPOINT A
7	CHAIRMAN FROM ITS MEMBERS.
8	(6) LEGISLATIVE MEMBERS OF THE GAMING ADVISORY COUNCIL
9	ARE ENTITLED TO COMPENSATION AND EXPENSES, AS PROVIDED IN
10	5-2-302, WHILE THE COUNCIL IS MEETING. THE REMAINING MEMBERS
11	ARE ENTITLED TO TRAVEL, MEALS, AND LODGING EXPENSES AS
12	PROVIDED FOR IN 2-18-501 THROUGH 2-18-503. EXPENSES OF THE
13	COUNCIL MUST BE PAID FROM LICENSING FEES RECEIVED BY THE
14	DEPARTMENT.
15	(7) THE GAMING ADVISORY COUNCIL SHALL, WITHIN ITS
16	AUTHORIZED BUDGET, HOLD MEETINGS AND INCUR EXPENSES AS IT
17	CONSIDERS NECESSARY TO STUDY ALL ASPECTS OF GAMBLING IN THE
18	STATE.
19	(8) (A) THE GAMING ADVISORY COUNCIL SHALL SUBMIT AN
20	ANNUAL REPORT TO THE DEPARTMENT, AT A TIME DESIGNATED BY THE
21	DEPARTMENT, WITH RECOMMENDATIONS FOR AMENDMENTS TO THE
22	GAMBLING STATUTES, THE NEED FOR ADDITIONAL OR MODIFIED
23	DEPARTMENT RULES, THE CLARIFICATION OF EXISTING LULES, AND
24	OTHER RECOMMENDATIONS ON THE OPERATION OF THE DEPARTMENT OR
25	ANY OTHER GAMBLING-RELATED MATTER.

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1 Pr. 1 (B) THE ANNUAL REPORT REQUIRED UNDER SUBSECTION (8)(A) 2 MUST BE AFFIXED TO THE ANNUAL DEPARTMENT REPORT ON GAMBLING 3 IN THE STATE. (C) THE COUNCIL MAY SUBMIT INTERIM REPORTS TO THE 4 5 DEPARTMENT AS THE COUNCIL CONSIDERS NECESSARY. 6 (D) THE COUNCIL SHALL MEET WITH THE DEPARTMENT UPON 7 REQUEST OF THE DEPARTMENT. 8 (E) THE DEPARTMENT SHALL MEET WITH THE COUNCIL UPON 9 REQUEST OF THE COUNCIL. NEW SECTION, Section 65, Reorganization 10 procedure. 11 The provisions of sections 2-15-131 through 2-15-137 govern the transfer of the various functions contained in [this 12 13 act] from the department of commerce to the department of 14 justice. 15 NEW SECTION. Section 66. Implementation. (1)The governor shall by executive order implement the provisions 16 17 of [this act]. 18 (2) The governor may by executive order assign to the department of justice in a manner consistent with [this act] 19 functions allocated to the department of commerce by the 20 21 51st legislature relating to the implementation of Title 23, chapter 5, parts 1 through 6, that are not transferred by 22 23 [this act]. NEW SECTION. Section 67. Repealer. Sections 23-5-105 24 25 through 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124

1 through 23-5-127, 23-5-132 through 23-5-134, 23-5-141 2 through 23-5-144, 23-5-201 through 23-5-211, 23-5-301 through 23-5-303, 23-5-314 through 23-5-316, 3 23-5-322. 23-5-323, 23-5-332, 23-5-401 through 23-5-403, 23-5-411, 4 23-5-415 through 23-5-418, 23-5-421 through 5 23-5-423. 6 23-5-504 through 23-5-508, 23-5-510, 23-5-511, 23-5-601, 7 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618, A. 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103, 23-5-1104, MCA, are repealed. 9

10 <u>NEW SECTION.</u> Section 68. Extension of authority. Any 11 existing authority to make rules on the subject of the 12 provisions of [this act] is extended to the provisions of 13 [this act].

14 NEW SECTION. Section 69. Codification instruction. 15 (1) [Sections 1, 2, 4 through 8, 10 through 12, 16, 18 16 through 20, and 23 through 25] are intended to be codified 17 as an integral part of Title 23, chapter 5, part 1, and the 18 provisions of Title 23, chapter 5, part 1, apply to 19 [sections 1, 2, 4 through 8, 10 through 12, 16, 18 through 20, and 23 through 25].

(2) [Sections 27 through 29 and 32] are intended to be
codified as an integral part of Title 23, chapter 5, part 3,
and the provisions of Title 23, chapter 5, part 3, apply to
[sections 27 through 29 and 32].

25 (3) [Sections 35 through 39 and 43] are intended to be

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codified as an integral part of Title 23, chapter 5, part 4,
 and the provisions of Title 23, chapter 5, part 4, apply to
 [sections 35 through 39 and 43].

4 (4) [Sections 50, 56, and 58] are intended to be 5 codified as an integral part of Title 23, chapter 5, part 6, 6 and the provisions of Title 23, chapter 5, part 6, apply to 7 [sections 50, 56, and 58].

8 (5) The code commissioner shall recodify the
9 provisions of Title 23, chapter 5, part 11, as an integral
10 part of Title 23, chapter 5, part 2.

11 (6) [SECTION 64] IS INTENDED TO BE CODIFIED AS AN 12 INTEGRAL PART OF TITLE 2, CHAPTER 15, PART 20, AND THE 13 PROVISIONS OF TITLE 2, CHAPTER 15, APPLY TO [SECTION 64]. NEW SECTION. Section 70. Severability. If a part of 14 15 [this act] is invalid, all valid parts that are severable 16 from the invalid part remain in effect. If a part of [this 17 act] is invalid in one or more of its applications, the part 18 remains in effect in all valid applications that are severable from the invalid applications. 19

-End-

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STANDING COMMITTEE REPORT

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Mr. Speaker: We, the committee on <u>Judiciary</u> report that <u>Senate Bill 431</u> (third reading copy -- blue), with statement of intent attached, <u>be concurred in as amended</u>.

Signed: Dave Brown, Chairman

(REP. STRIZICH WILL CARRY THIS BILL ON THE HOUSE FLOOR)

And, that such amendments read:

1. Title, line 10. Following: "APPROPRIATION;" Insert: "PROVIDING FOR STATUTORY APPROPRIATION;"

2. Title, line 11. Following: "17 7 502," Insert: "17-7-502,"

3. Page 3, line 13. Strike: "and fund"

4. Page 3, line 23.
Strike: "revocable"
Following: "privilege"
Insert: "revocable only for good cause"

5. Page 3, lines 23 through 25. Strike: "A holder" on line 23 through "granted." on line 25

6. Page 5, lines 6 through 14. Strike: "the receptacle" on line 6 through "bingo" on line 14 Insert: "equipment that may be inspected by the department and that randomly selects the numbers or symbols"

7. Page 5, line 15. Strike: "<u>game of chance</u>" Insert: "gambling activity"

8. Page 5, line 19. Following: "75 numbers" April 10, 1989 Page 2

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Insert: "or symbols" Following: "One number" Insert: "or symbol"

9. Page 5, line 21. Pollowing: "phay" Insert: ", except for the center square, which may be considered a free play" Strike: "and letters" Insert: "or symbols"

10. Page 5, lines 22 and 23. Strike: "from a receptacle and announced by a bingo caller"

11. Page 5, line 23.
Strike: ", and"
Insert: "until"

12. Page 5, line 24. Following: "the person" Insert: "or persons" Strike: "covers" Insert: "covers"

13. Page 5, line 25. Following: "numbers" Insert: "or symbols"

14. Page 6, lines 1 and 2. Strike: "licensed by the department to work as a live bingo caller" Insert: "16 years of age or older"

15. Page 6, line 3. Strike: "<u>objects</u>" Insert: "numbers or symbols"

16. Page 7, line 15. Following: line 14 Insert: "at least"

17. Page 7, limes 16 and 17. Strike: "licensed by the department to work as a live keno <u>caller</u>" Insert: "18 years of age or older"

18. Page 7, line 21. Strike: "<u>caller's</u>"

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19. Page 11, line 9. Following: "status" Insert: ", with the power of search, seizure, and arrest,"

20. Page 11, lines 9 and 10. Strike: ", regulate, and control all legal and illegal"

21. Page 11, line 12.

Following: "department"

Insert: "and to report violations to the county attorney of the county in which they occur"

22. Page 11, line 14.

Following: "department"

Insert: ", a former department employee during the first 365 days following termination of employment,"

23. Page 11, line 15. Strike: "<u>OTHER PERSON</u>" Insert: "peace officer or prosecutor"

24. Rage 11, line 18. Following: "organization" Insert: ", other than a nonprofit corporation or organization,"

25. Page 12, line 25 through page 14, line 20. Strike: "it appears" on line 25 through page 14, line 20 Insert: "a person has engaged or is engaging in an act or

practice constituting a violation of a provision of parts 1 through 6 of this chapter or a rule or order of the department, the department may:

(a) issue a temporary order to cease and desist from the act or practice for a period not to exceed 60 days; and

(b) following notice and an opportunity for hearing, and with the right of judicial review, under the Montana Administrative Procedure Act:

 (i) issue a permanent order to cease and desist from the act or practice, which order remains in effect pending judicial review;

(ii) place a licensee on probation;

(iii) suspend for a period not to exceed 180 days a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;

(iv) revoke a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;**

(v) impose a civil penalty not to exceed \$10,000 for

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each violation, whether or not the person is licensed by the department; and

(vi) impose any combination of the penalties contained in this subsection (1)(b); and

(c) bring an action in district court for relief against the act or practice. The department may not be required to post a bond. On proper showing, the court may:
(i) issue a restraining order, a temporary or permanent

injunction, or other appropriate writ; (ii) suspend or revoke a license or permit; and (iii) appoint a receiver or conservator for the

defendant or the assets of the defendant.

(2) A civil penalty imposed under this section must be collected by the department and deposited in the state's general fund as required by 23-5-123. If a person fails to pay the civil penalty, the amount due is a lien on the person's licenised premises and gambling devices in the state and may be recovered by the department in a civil action."

26. Page 15, lines 7 through 14. Strike: "a special" on line 7 through "problems" on line 14 Insert: "the state's general fund"

27. Page 15, line 18. Following: "may" Insert: ", based on information available to, required by, or supplied to the department under department rules,"

28. Page 15, line 20 through page 16, line 22. Strike: subsection (2) in its entirety Insert: #(2) The department shall issue a license unless the department can demonstrate that the applicant is:

(a) a person whose prior activities or criminal record:
(i) poses a threat to the public interest of the state
or the effective regulation and control or gambling; or
(ii) creates...a danger of illegal practices, methods, or activities in the conduct of gambling or in the carrying on of the business and financial arrangements incidental to gambling; or

(b) receiving a substantial amount of financing for the proposed operation from an unsuitable source. A lender or other source of money or credit that the department finds to meet the provisions of subsection (.) (a) may be considered an unsuitable source."

29. Page 18, line 13. Strike: "must" Insert: "may" April IO, 1989 Page 5

30. Page 18, line 14. Strike: "and cannot be set aside by the court"

31. Page 19, line 23. Following: "losses at" Insert: "illegal"

32. Page 21, line 25. Following: "of a" Insert: "judgment in a"

33. Page 24, line 2. Strike: "[SECTION 41]" Insert: "23-5-413"

34. Page 24, line 8.

Pollowing: "activity."

Insert: "The use of a check or credit card to pay for other goods or services in the establishment or to obtain cash is not a violation of this section."

35. Page 26, lines 13 through 16.

Strike: "An" on line 13 through line 16

Insert: "For the purposes of this section, an antique slot machine is a slot machine manufactured prior to 1950, the operation of which is exclusively mechanical in nature and is not aided in whole or in part by any electronic means."

36. Page 26, line 23. Following: "City." Insert: "A licensed manufacturer-distributor may possess and sell antique slot machines."

37. Page 27, line 5. Following: "conviction" Insert: "of a first offense" Strike: "less" Insert: "more"

38. Page 27, lines 5 through 7. Strike: "or more" on line 5 through "violation" on line 7

39. Page 27, line 7. Following: "."

Insert: "Upon a second conviction within 5 years of a first conviction, a person must be fined not more than \$1,000 or imprisoned in the county jail for not more than 6 months, or both. Upon a third conviction within-5 years of a second conviction, a person must be fined not more than \$10,000 or April 10, 1989 Page 6

imprisoned in the county jail for not more than 1 year or both. Upon a fourth conviction within 5 years of a third conviction, a person must be fined not more than \$10,000 or imprisoned in the county jail for not more than 1 year, or both, and the department shall revoke all licenses and permits the person holds under parts 1 through 6 of this chapter and the person is forever barred from receipt of any license or permit under this chapter. When 5 years have passed following a conviction, the record of that conviction may be made available only to criminal justice agencies or upon court order."

40. Page 27, lines I3 through 16. Strike: "Nowever" on line 13 through end of line 16

41. Page 28, line 7.
Following: "poker"
Insert: "(including jacks or better)"

42. Page 28, line 24. Strike: "each" Insert: "the first"

43. Page 28, line 25 through page 29, line 2. Strike: "must be" on line 25 through "rules" on page 29, line 2 Insert: "is \$75, and the annual renewal fee is \$25"

44. Page 29, line 9. Strike: "may" Insert: "shall"

45. Page 29, line 11. Following: "dealer." Insert: "The rules must provide that a temporary license may be obtained at the place where a person locally applies for a driver's license and that the receipt received upon mailing an application for a permanent license by certified mail, return receipt requested, also constitutes a temporary license."

46. Page 29, lines 11 through 13. Strike: "delegate" on line 11 through "authority to" on line 13 Insert: "not" Following: "assess" on line 13 Strike: "and retain"

47. Page 30, line 1. Following: ";" Insert: "and"

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48. Page 30, line 2. Strike: "\$750" Insert: "\$500"	
49. Page 30, lines 2 and 3. Strike: "the second" on line 2 through "third and" on line 3	3
50. Page 30, line 17. Following: "treasury." Insert: "The local government portion of this fee is statute appropriated to the department, as provided in 17-7-502 deposit to the county or municipal treasury."	orily 2, for
50. Page 32, line 5. Following: " jurisdiction. " Page 39, line 24. Page 53, line 13. Following: " foction 23] " Insert: "However, in the jurisdiction of a local government a game is played, the local government may adopt an ordinance allowing play between 2 a.m. and 8 a.m."	where
52. Page 33, line 12. Following: "and (c)(4)" Insert: "on January 15, 1989,"	
53. Page 33, line 13, Following: "part." Insert: "An organization qualified for exemption under that section after that date is exempt from taxation under, need only pay one-half the license fees under, this par the organization carries on gambling activities for no than 60 days a calendar year and if the activities are limited to its main premises or place of operations and events at other places operated by other charitable organizations or by a government unit or entity."	t if more
54. Page 33, line 23 through page 34, line 17. Strike: section 37 in its entirety Renumber: subsequent sections	
55. Page 35, lines 3 and 4 and line 18. Strike: "gross proceeds"	
56. Page 35, line 7. Strike: "gross proceeds" Insert: "net income"	·

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57. Page 35, line 9. Following: "premises." Insert: "For purposes of this section, "net income" means gross proceeds, as defined in 23-5-101, minus the cost of equipment, supplies, personnel, and advertising allocated to the games. If in any year 5% of net income does not equal 1% of gross proceeds, then the licensee shall pay a tax of 1% of gross proceeds." 58. Page 35, lines 10 and 16. Following: "gross proceeds" Insert: "and net income" 59. Page 35, lines 14 and 15. Strike: ", within 15 days after the end of each quarter," Insert: "annually" 60. Page 35, line 19. Strike: "quarter" Insert: "year" 61. Page 36, line 5. Following: "treasury," Insert: "The tax collected under subsection (3) is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury." 62. Page 36, line 17. Following: "award." Insert: "A player may give the caller a card with instructions on the card to play that card and its marked numbers for up to the number of successive games that the house allows and that the player has indicated on the card, upon payment of the price per game times the number of successive games indicated. The caller shall keep the card until the end of the number of games indicated, and the department may by rule provide that at that time the caller shall pay the player any prizes won." 63. Page 43, line 16. Following: "makes," Insert: "or"

64. Page 43, lines 16 and 17. Strike: ", or repairs"

65. Page 43, line 25. Following: "the" Insert: "number of approved"

66. Page 44, line 7. Following: "Only" Insert: "the number of approved"

67. Page 45, line 6. Following: "Only a" Insert: (a)

68, Page 45, line 13.

Following: premises.

Insert: "(b) A person who has been granted an operator's license under [section 11] and is not entitled to a permit under subsection (1)(a) may be granted a permit for the placement of up to two video keno or bingo gambling machines in his premises if the premises have been licensed for the sale of food, cigarettes, or any other consumable product other than liquor or beer. If only one machine is allowed under subsection (1)(c), one more may be allowed under this subsection (b).

(c) If video keno or bingo gambling machines were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed under 16-4-401(2) or operated for the principal purpose of gaming and there is an operator's license for the premises under [section 11], a permit for the same number of video keno or bingo gambling machines as were operated on the premises on that date may be granted to the person who held the permit for such machines on those premises on that date; to an ancestor, descendant, sibling, or spouse of that person; or to a person who purchases or leases the business that is on the premises. If the business is moved to another premises, the permitee remains eligible for the same number of permits. (d) "

69. Page 46, line 12. Strike: "10 KENO AND BINGO" Insert: "20"

70. Page 46, line 13. Following: "AND" Insert: "no more than" Following: "10" Insert: "may be"

71. Page 46. lines 18 through 22. Strike: "IN THE" on line 18 through the end of line 22

72. Page 47, line 7.

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Strike: "each" Insert: "an approved"

73. Page 47, line 11. Following: "machine" Insert: "permit"

74. Page 48, line 1.

Following: "1909," Insert: "(4) A used keno machine may be licensed under subsection (1) without meeting the requirements of 23-5-609 if the applicant for licensure can establish to the satisfaction of the department that, on the date of application, he owns or possesses a machine that was owned or operated in the state prior to June 30, 1987. A license issued under this subsection expires for all purposes no later than June 30, 1989.

75. Page 49, line 10. Following: "part." Insert: "The specifications in the rules must substantially

follow the specifications contained in 23-5-606 and 23-5-609 as those sections read on September 30, 1989. The department shall adopt rules allowing video gambling machines to be imported into this state and used for the purposes of trade shows, exhibitions, and similar activities."

76. Page 49, line 15. Following: "department" Insert: "which specification or requirement existed at the time the machine was approved"

77. Page 49, line 24. Following: "distribute" Insert: "or" Following: "supply" Strike: ", or repair"

78. Page 52, line 11. Strike: "\$100" Following: "a hand or \$800" Insert: "\$800"

79. Page 53, lines 24 and 25. Strike: "or a rule promulgated" Strike: "by the department" on line 25

80. Page 59, line 9.

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Following: line 8

Insert: "Section 62. Section 17-7-502, MCA, is amended to read: *17-7-502. Statutory appropriations -- definition -requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; [section 29], [section 38] 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana, Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3): pursuant to sec. 15, Ch. 607, L. 1987, the inclusion of 15-65-121 terminates June 30, 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991; and pursuant to sec. 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L. 1987, terminates July 1, 1988.)** Renumber: subsequent sections

81. Page 59, line 24. Strike: "TWO" Insert: "one"

April 10, 1989 Page 12

82. Page 59, line 25. Following: "GOVERNMENTS." Insert: "one being a Native American,"

83. Page 60, line 3.

- Strike: "2-YEAR" Insert: "3-year"
- Following: "OFFICE"
- Insert: ", except that three of the first-appointed original members shall serve a 1-year term, three (including both legislative members) shall serve a 2-year term, and three shall serve a 3-year term"

84. Page 61. line 3.

Following: "STATE

Insert: "The department and council shall submit the two most recent department and council reports to each of the next two regular sessions of the legislature."

85. Page 61, line 10.

- Following: line 9
- Insert: "(9) The department shall give each council member notice and a copy of each proposed change in administrative rules relating to gambling. The notice and copy must be given at the time a notice of proposed rules changes is filed with the secretary of state. The council shall review the proposal, may comment on it, and may attend any hearing on the proposal. The department shall consider any comment by any council member or by the council as a whole prior to adopting the proposed change.

NEW SECTION. Section 65, Construction. In view of Article III, section 9, of the Montana constitution, [this act] must be strictly construed by the department and the courts to allow only those types of gambling and gambling activity that are specifically and clearly allowed by [this

Renumber: subsequent sections

86. Page 61, lines 13 and 20. Following: "commerce" Insert: "and the department of revenue"

87. Page 62, line 25. Page 63, line 3. Strike: "39" Insert: "38" Strike: "43"

Insert: "42"

88. Page 63, lines 4 and 7. Strike: "50" Insert: "49" Strike: "56" Insert: "55" Strike: "58" Insert: "57"

89. Page 63, line 14.

Following: line 13

Insert: "NEW SECTION. Section 71. Coordination instruction. (1) The reference copy of House Bill No. 576 of the 51st legislature is amended to insert, on page 2, line 9, after "2255600441(1)" the phrase " as the section read

after "23-5-609(4)(L)", the phrase ", as that section read on September 30, 1989". (2) The reference copy of House Bill No. 251 of the

51st legislature is amended to change "<u>license</u>" to "permit" on page 2, lines 2 and 13.

(3) The reference copy of House Bill No. 448 of the 51st legislature is amended to delete the amendments made to 23-5-104(1). Subsection (1) of 23-5-104 and the first sentence of 23-5-104(2) are deleted, as provided in [section 22], and the amendments to the remainder of 23-5-104 by [section 22] and House Bill No. 448 take effect."

Renumber: subsequent section

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COMMITTEE OF THE WHOLE AMENDMENT SENATE BILL 431 Representative Bruce Simon

> April 12, 1989 9:53 am Page 1 of 1

Mr. Chairman: I move to amend SENATE BILL 431 (third reading copy -- blue).

Bruce Simon

And, that such amendment to SENATE BILL 431 read as follows:

1. Page 44, line 24. Following: "machines:"

Insert; "(3) Machines on premises licensed to sell alcoholic beverages for consumption on the premises must be placed in the room, area, or other part of the premises in which the alcoholic beverages are sold and normally consumed."

COMMITTEE OF THE WHOLE AMENDMENT SENATE BILL 431 Representative Jim Rice

April 12, 1989 1:17 pm Page 1 of 1

Mr. Chairman: I move to amend SENATE BILL 431 (third reading copy -- blue), as reported by the House Judiciary Committee on April 10, 1989 (green sheet).

Signed: iru Representative Jim Rice

And, that the amendment to the Judiciary Committee's amendments to SENATE BILL 431 read as follows:

1. In the House Judiciary Committee report amendment number 62 (green sheet -- page 8) amend the insert as follows: Following: "indicated." on line 6 of the amendment

Insert: "The player must remain on the house premises until the card is played or withdrawn."

Retain the sentence beginning "The caller shall"

HOUSE



ADOPT

HOUSE 821317CW.HBV

REJECT

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SB 0431/05

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SB 04**3**1/05

1	SENATE BILL NO. 431	1	23-5-615,
2	INTRODUCED BY GAGE, HARPER, B. BROWN, MAZUREK,	2	23-5-636,
3	ADDY, STRIZICH, MERCER, CRIPPEN, HANNAH,	3	
4	HARP, VAN VALKENBURG	4	
5	BY REQUEST OF THE DEPARTMENT OF JUSTICE	5	This
6		6	[section 7
7	A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE	7	administra
8	PUBLIC GAMBLING LAWS OF MONTANA; PROVIDING FOR LICENSURE AND	8	intended t
9	REGULATION OF GAMBLING ACTIVITIES BY THE DEPARTMENT OF	9	in Montana
10	JUSTICE; PROVIDING-FORSTATUTORYAPPROPRIATION; PROVIDING	10	It is
11	FOR STATUTORY APPROPRIATION; PROVIDING FOR A GAMING ADVISORY	11	of justic
12	COUNCIL: AMENDING SECTIONS 17-7-502, 17-7-502, 23-5-101	12	statewide
13	THROUGH 23-5-104, 23-5-108, 23-5-123, 23-5-131, 23-5-135,	13	the purpos
14	23-5-311 THROUGH 23-5-313, 23-5-321, 23-5-331, 23-5-412	14	bil1.
15	THROUGH 23-5-414, 23-5-431, 23-5-503, 23-5-509, 23-5-602,	15	
16	23-5-603, 23-5-607, 23-5-608, 23-5-610 THROUGH 23-5-613,	16	BE IT ENAG
17	23-5-616, 23-5-625, 23-5-631, 23-5-1101, AND 23-5-1105, MCA;	17	NEW
18	AND REPEALING SECTIONS 23-5-105 THROUGH 23-5-107, 23-5-109,	18	concernin
19	23-5-121, 23-5-122, 23-5-124 THROUGH 23-5-127, 23-5-132	19	purpose
20	THROUGH 23-5-134, 23-5-141 THROUGH 23-5-144, 23-5-201	20	state it
21	THROUGH 23-5-211, 23-5-301 THROUGH 23-5-303, 23-5-314	21	regarding
22	THROUGH 23-5-316, 23-5-322, 23-5-323, 23-5-332, 23-5-401	22	legislatu
23	THROUGH 23-5-403, 23-5-411, 23-5-415 THROUGH 23-5-418,	23	(a)
24	23-5-421 THROUGH 23-5-423, 23-5-504 THROUGH 23-5-508,	24	that assu
25	23-5-510, 23-5-511, 23-5-601, 23-5-605, 23-5-606, 23-5-609,	25	that the

1	23-5-615, 23-5-617, 23-5-618, 23- 5-626, 23 - 5-627, 23-5-635,
2	23-5-636, 23-5-1103, AND 23-5-1104, MCA."
3	
4	STATEMENT OF INTENT
5	This bill requires a statement of intent because
6	[section 7] authorizes the department of justice to adopt
7	administrative rules to implement [this act]. [This act] is
8	intended to provide uniform statewide regulation of gambling
9	in Montana under the supervision of the attorney general,
10	It is the intent of the legislature that the department
11	of justice adopt necessary rules to implement uniform
12	statewide regulation of gambling in Montana consistent with
13	the purposes and policies set forth in [section 1] of this
14	bill.
15	
16	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
17	NEW SECTION. Section 1. Public policy of state

NEW SECTION. Section 7. Public policy of state concerning gambling. (1) The legislature finds that for the purpose of ensuring the proper gambling environment in this state it is necessary and desirable to adopt a public policy regarding public gambling activities in Montana. The legislature therefore declares it is necessary to:

(a) create and maintain a uniform regulatory climate
that assures players, owners, tourists, citizens, and others
that the gambling industry in this state is fair and is not

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REFERENCE BILL AS AMENDED

influenced by corrupt persons, organizations, or practices;
 (b) protect legal public gambling activities from
 unscrupulous players and vendors and detrimental influences;
 (c) protect the public from unscrupulous proprietors
 and operators of gambling establishments, games, and
 devices;

7 (d) protect the state and local governments from those
8 who would conduct illegal gambling activities that deprive
9 those governments of their tax revenues;

(e) protect the health, safety, and welfare of all
citizens of this state, including those who do not gamble,
by regulating gambling activities; and

(f) promote and-fund programs necessary to provide 13 14 assistance to those who are adversely affected by legalized 15 gambling, including compulsive gamblers and their families. 16 (2) The legislature adopts the policy that an 17 applicant for a license or permit or other department approval under parts 1 through 6 of this chapter does not 18 have a right to the issuance of a license or permit or the 19 20 granting of the approval sought. The issuance of a license or permit issued or other department approval granted 21 pursuant to the provisions of parts 1 through 6 of this 22 23 chapter is a revocable privilege REVOCABLE ONLY FOR GOOD CAUSE. A--holder--does--not--acquire--a-vested-right-in-the 24 license--or--permit--issued--or--other--department--approval 25

1 granted. A license or permit issued under parts 1 through 6
2 of this chapter may not be sold, assigned, leased, or
3 transferred.

4 (3) Revenue to fund the expense of administration and 5 control of gambling as regulated by parts 1 through 6 of 6 this chapter must be derived solely from fees, taxes, and 7 penalties on gambling activities, except the gambling 8 activities of the Montana state lottery and the parimutuel 9 industry.

<u>NEW SECTION.</u> Section 2. General application. This
 chapter applies only to public gambling activities within
 the state of Montana.

13 Section 3. Section 23-5-101, MCA, is amended to read: 14 "23-5-101. Definitions. Unless the context requires 15 otherwise, the following definitions apply to parts 1 16 through 6 of this chapter:

17 (1) A-slot-machine-is-defined-as a-machine-operated-by 18 inserting -a -coing--tokeng--chip, trade -checkg--op--paper curtency-therein-by-the-player and from the play-of-which-he 19 20 obtains-or-may-obtain-money;-checks, chips,-tokens;-or-paper 21 currency-redeemable-in-money--Merchandise--vending--machines 22 where--the--element--of--chance --does --not--enter-into-their 23 operation-are--not--within--the provisions--of--this--part-24 "Applicant" means a person who has appl ed for a license or 25 permit issued by the department pursuant to parts 1 through

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1	6 of this chapter.	1	RANDOMLY drawn from-a-receptacle-and-announcedbyabingo
2	(2) "Application" means a written request for a	2	caller using authorized equipment7-and UNTIL the game is won
3	license or permit issued by the department. The department	3	by the person OR PERSONS who first covers COVER a previously
4	shall adopt rules describing the forms and information	4	designated arrangement of numbers OR SYMBOLS on the bingo
5	required for issuance of a license.	5	card.
6	(3) "Authorized equipment" means, with respect to live	6	(5) "Bingo caller" means a person Hicensedbythe
7	keno or bingo, the-receptacleandnumberedobjectsdrawn	7	department-to-work-as-a-live-bingo-caller 18 YEARS OF AGE OR
8	from-it,-the-magter-board-upon-which-such-objects-are-placed	8	OLDER who, using authorized equipment, announces the order
9	asdrawnthecardsorsheetsbearing-numbers-or-other	9	of the objects NUMBERS OR SYMBOLS drawn in live bingo.
10	designations-to-be-covered-and-theobjectsusedtocover	10	(6) "Card game table" or "table" means a live card
11	them;theboardsorsigns;howeveroperated;usedto	11	game table authorized by permit and made available to the
12	announce-or-display-the-numbers-or-designations-as-theyare	12	public on the premises of a licensed gambling operator.
13	drawnpublicaddresssystemandallotherarticles	13	(7) "Dealer" means a person with a dealer's license
14	essential-to-the-operation-conducty-and-playing-oflive	14	issued under part 3 of this chapter.
15	keng-orbingg EQUIPMENT THAT MAY BE INSPECTED BY THE	15	(8) "Department" means the department of justice.
16	DEPARTMENT AND THAT RANDOMLY SELECTS THE NUMBERS OR SYMBOLS.	16	(9) "Distributor" means a person who:
17	(4) "Bingo" means a game-of-chance GAMBLING ACTIVITY	17	(a) purchases or obtains from another person equipment
18	played for prizes with a card bearing a printed design of 5	18	of any kind for use in gambling activities; and
19	columns of 5 squares each, 25 squares in all. The letters	19	(b) sells, leases, or otherwise furnishes the
20	B-I-N-G-O must appear above the design, with each letter	20	equipment to another person for use in public.
21	above one of the columns. No more than 75 numbers OR SYMBOLS	21	(10) "Gambling" or "gambling activity" means risking
22	may be used. One number OR SYMBOL must appear in each	22	money, credit, deposit, check, property, or any other thing
23	squareexceptfor-the-center-square-which-is-considered-a	23	of value for a gain that is contingent in whole or in part
24	free-play, EXCEPT FOR THE CENTER SQUARE, WHICH MAY BE	24	upon lot, chance, or the operation of a gambling device or
25	CONSIDERED A FREE PLAY. Numbers and-letters OR SYMBOLS are	25	gambling enterprise.

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1 (11) "Gambling device" means а mechanical, 2 electromechanical, or electronic device, machine, slot 3 machine, instrument, apparatus, contrivance, scheme, or 4 system USED OR INTENDED FOR USE IN ANY GAMBLING ACTIVITY. 5 (12) "Gambling enterprise" means an activity, scheme, 6 or agreement or an attempted activity, scheme, or agreement 7 to provide gambling or a gambling device to the public. 8 (13) "GROSS PROCEEDS" MEANS GROSS REVENUE RECEIVED LESS q PRIZES PAID OUT. 10 (13)(14) "Illegal gambling device" means a gambling 11 device not specifically authorized by statute or by the 12 rules of the department. 13 ti4+(15) "Illegal gambling enterprise" means a gambling 14 enterprise that violates a statute or a rule of the 15 department. 16 (15)(16) "Keno" means a game of chance in which prizes 17 are awarded using a card with 8 horizontal rows and 10 18 columns on which a player may pick up to 10 numbers. A keno 19 caller, using authorized equipment, shall select at random 20 AT LEAST 20 numbers out of numbers between 1 and 80, 21 inclusive. 22 fl6;(17) "Keno caller" means a person licensed-by-the 23 department-to-work-as-a-live-keno-caller 18 YEARS OF AGE OR 24 OLDER who, using authorized equipment, announces the order 25 of the numbers drawn in live keno.

1 (17) "License" means an operator's, dealer's, 2 caller's or manufacturer-distributor's license issued to a 3 person by the department. 4 (19) "Licensee" means a person who has received a license from the department. 5 6 (19)(20) "Live card game", OR "card game", or-"game" 7 means a card game that is played in public between persons 8 on the premises of a licensed gambling operator. 9 {20}(21) "Lottery" or "gift enterprise" means a scheme, 10 by whatever name known, for the disposal or distribution of 11 property by chance among persons who have paid or promised 12 to pay valuable consideration for the chance of obtaining 13 the property or a portion of it or for a share or interest 14 in the property upon an agreement, understanding, or 15 expectation that it is to be distributed or disposed of by 16 lot or chance. However, "gift enterprise" does not mean: 17 (a) lotteries authorized under part 10 of this 18 chapter; or 19 (b) cash or merchandise attendance prizes or premiums 20 that the county fair commissioners of agricultural fairs and 21 rodeo associations may give away at public drawings at fairs 22 and rodeos. 23 (21)(22) "Manufacturer" means a person who assembles 24 from raw materials or subparts a completed piece of 25 equipment or pieces of equipment of any kind to be used as a

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1	gambling device.	1	partnership, corporation
2	<u>{22}(23) "Operator" means a person who purchases,</u>	2	order, or society, inc
3	receives, or acquires, by lease or otherwise, and operates	3	charitable organization.
4	or controls for use in public, a gambling device or gambling	4	(27)(28) "Raffle" me
5	enterprise authorized under parts 1 through 6 of this	5	participant buys a chance
6	chapter.	6	(28)(29) "Slot machi
7	<pre>123)(24) "Permit" means approval from the department to</pre>	. 7	<u>electronic, or other g</u>
8	make available for public play a gambling device or gambling	8	machine that, upon ins
9	enterprise approved by the department pursuant to parts 1	9	credit card, or similar
10	through 6 of this chapter.	10	valuable consideration, i
11	(2)<u>(24)(25)</u> Inaddition-to-their-ordinary-meaningthe	11	play or operation of wh
12	words-"person" "Person" or "persons"7-as-used-in-thispart7	12	of the operator or applic
13	include means both natural and artificial persons and all	13	both, may deliver or enti
14	partnerships, corporations, associations, clubs, fraternal	14	the gambling device to r
15	orders, and societies, including religious, fraternal, and	15	tokens, or anything of va
16	charitable organizations.	16	automatically from the m
17	+25+(26) "Premises" means the physical building or	17	definition does not ap
18	property within or upon which a licensed gambling activity	18	authorized under part 6 o
19	occurs, as stated on an operator's license application and	19	(29) (30) "Video gam
20	approved by the department.	20	specifically authorized b
21	<pre>+26+(27) "Public GAMBLING" means GAMBLING CONDUCTED IN:</pre>	21	rules of the department."
22	(a) a place, building, or conveyance to which the	22	NEW SECTION. Section
23	public has access or may be permitted to have access; or	23	governments to regulate g
24	(b) a place of public resort, including but not	24	not license; <u>OR</u> regulate;
25	limited to a facility owned, managed, or operated by a	25	gambling authorized by p

on, association, club, fraternal cluding a religious, fraternal, or means a gift enterprise in which each e or chances to win a prize. line" means a mechanical, electrical, gambling device, contrivance, or sertion of a coin, currency, token, object or upon payment of any is available to play or operate, the which, whether by reason of the skill ication of the element of chance, or title the person playing or operating receive cash, premiums, merchandise, value, whether the payoff is made machine or in any other manner. This apply to video gambling machines of this chapter. ambling machine" is a gambling device by part 6 of this chapter and the <u>.</u>" ion 4. Authority of local gambling. (1) A local government may er-or-otherwise-limit a form of

5 gambling authorized by parts 1 through 6 of this chapter OR

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ASSESS OR CHARGE ANY FEES OR TAXES unless specifically
 authorized by statute.

3 (2) An incorporated city or town may enact an 4 ordinance or resolution defining <u>ZONING</u> certain areas within 5 its incorporated limits in which gambling is prohibited.

6 (3) A county may enact a resolution defining <u>ZONING</u>
7 certain areas in the county, not within an incorporated city
8 or town, in which gambling is prohibited.

9 (4) A county or incorporated city or town may not 10 restrict the number of licenses that the department may 11 issue.

NEW SECTION. Section 5. Department criminal 12 as 13 justice agency. The department is a criminal justice agency. Designated agents of the department are granted peace 14 officer status, WITH THE POWER OF SEARCH, SEIZURE, AND 15 ARREST, to investigate -- regulate -- and -control-all-legal-- and 16 illegal gambling activities in this state regulated by parts 17 1 through 6 of this chapter and the rules of the department 18 AND TO REPORT VIOLATIONS TO THE COUNTY ATTORNEY OF THE 19 20 COUNTY IN WHICH THEY OCCUR.

 21
 NEW SECTION. Section 6. Department employees --

 22
 activities prohibited. An employee of the department, A

 23
 FORMER DEPARTMENT EMPLOYEE DURING THE FIRST 365 DAYS

 24
 FOLLOWING TERMINATION OF EMPLOYMENT, OR ANY OFHER--PERSON

 25
 PEACE OFFICER OR PROSECUTOR directly involved with the

1 prosecution, investigation, regulation, or licensing of 2 gambling may not:

3 (1) serve as an officer or manager of a corporation or
 4 organization, OTHER THAN A NONPROFIT CORPORATION OR
 5 ORGANIZATION, that conducts a gambling activity;

6 (2) receive or share in, directly or indirectly, any
7 profit of a gambling activity regulated by the department;
8 (3) have a beneficial or pecuniary interest in a
9 contract for the manufacture or sale of a gambling device,
10 the conduct of a gambling activity, or the provision of
11 independent consultant services in connection with a
12 gambling activity.

<u>NEW SECTION.</u> Section 7. Powers and duties of
 department -- licensing. (1) The department shall administer
 the provisions of parts 1 through 6 of this chapter.

16 (2) The department shall adopt rules to administer and17 implement parts 1 through 6 of this chapter.

18 (3) The department shall provide licensing procedures,
19 prescribe necessary application forms, and grant or deny
20 license applications.

(4) The department shall prescribe recordkeeping
requirements for licensees, provide a procedure for
inspection of records, provide a method for collection of
taxes, and establish penalties for the delinquent reporting
and payment of required taxes.

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1 (5) The department may suspend, revoke, deny, or place 2 a condition on a license issued under parts 1 through 6 of 3 this chapter.

4 (6) The department may not make public or otherwise 5 disclose information obtained in the <u>APPLICATION OR</u> tax 6 reporting processes, except for general statistical 7 reporting or studies.

8 (7) THE DEPARTMENT SHALL ASSESS, COLLECT, AND DISBURSE
9 ANY FEES, TAXES, OR CHARGES AUTHORIZED UNDER PARTS 1 THROUGH
10 6 OF THIS CHAPTER.

11 <u>NEW SECTION.</u> Section 8. Injunction and other 12 remedies. (1) If it-appears-to-the-department-that-a-person 13 has-engaged-in-or-is-about-to-engage-in-an-act--or--practice 14 constituting-a-violation-of-a-provision-of-parts-1-through-6 15 of--this--chapter--or--a-rule-or-order-of-the-department7-it 16 may:

17 (a)--issue-a-temporary--cease--and--desist--order--with reasonable--notice--and opportunity-for-hearing--Following-a 18 hearing-or-if-the-person-to-whom--the--notice--is--addressed 19 20 does--not--request-a-hearing-within-15-days-after-receipt-of 21 the-notice--the-department-may-issue-a-permanent--cease--and desist-order-that-must-remain-in-effect-pending-an-appeal-or 22 23 judicial--review by-the-person-aggrieved-by-a-final-order-of 24 the-department+

25 tb)--bring--without-the-issuance-of-a-cease-and--desist

order7--an--action--in--district--court-to-enjoin-the-act-or practice---On-a--proper--showing7--the--court--may--grant--a permanent--or--temporary-injunction7-a-restraining-order7-or

4 other-appropriate-writ-and-appoint-a-receiver-or-conservator

5 for-the-defendant-or-the-defendant-s-assets--The--department

6 may-not-be-required-to-post-a-bond-

(c)--place-a-licensee-on-probation;

B (d)--suspend--a--license-for-a-period-not-to-exceed-180 9 days;

y aujs,

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2

3

7

10 (e)--revoke-a-license;

11 (f)--deny-renewal-of-a-license-upon-its-expiration;

12 fg)--impose-a-civil-penalty-not-to-exceed--\$t0;000--for

13 each--violation--of-a-provision-of-parts-l-through-6-of-this

- 14 chapter-or-a-rule-of-the--department;--whether--or--not--the
- 15 person-is-licensed-by-the-department;

16 th)--impose--a-combination-of-the-penalties provided-in

17 subsections-ti)ta;-through-ti)tg);

18 (2)--A-fine-imposed-by--a--district--court--pr--by--the

19 department--under--this--section--must--be--collected-by-the

20 department-and-deposited-in-the-special-revenue--account--as

21 provided-in-23-5-123-

22 (3)--Imposition--of--a--fine--under--this-section-is-an

23 order-from-which-an-appeal-may-be-taken-pursuant-to-faction

24 12],

25 (4)--If-a-person-fails-to-pay-a-fine-imposed-under-this

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1	sectiony-the-fine-isalienonalloftheassetsand
2	propertyof-the-person-in-the-state-and-may-be-recovered-by
3	the-department-in-a-civil-action-
4	<pre>{5}If-a-person-fails-to-pay-a-fine-imposed-under-this</pre>
5	sectiony-he-may-not-be-licensed-to-operate-a-gambling-device
6	or-gambling-enterprise-in-the-state-under-parts-l-through6
7	ofthischapter. A PERSON HAS ENGAGED OR IS ENGAGING IN AN
8	ACT OR PRACTICE CONSTITUTING A VIOLATION OF A PROVISION OF
9	PARTS 1 THROUGH 6 OF THIS CHAPTER OR A RULE OR ORDER OF THE
10	DEPARTMENT, THE DEPARTMENT MAY:
11	(A) ISSUE A TEMPORARY ORDER TO CEASE AND DESIST FROM
12	THE ACT OR PRACTICE FOR A PERIOD NOT TO EXCEED 60 DAYS; AND
13	(B) FOLLOWING NOTICE AND AN OPPORTUNITY FOR HEARING,
14	AND WITH THE RIGHT OF JUDICIAL REVIEW, UNDER THE MONTANA
15	ADMINISTRATIVE PROCEDURE ACT:
16	(I) ISSUE A PERMANENT ORDER TO CEASE AND DESIST FROM
17	THE ACT OR PRACTICE, WHICH ORDER REMAINS IN EFFECT PENDING
18	JUDICIAL REVIEW;
19	(II) PLACE A LICENSEE ON PROBATION;
20	(III) SUSPEND FOR A PERIOD NOT TO EXCEED 180 DAYS A
21	LICENSE OR PERMIT FOR THE GAMBLING ACTIVITY, DEVICE, OR
22	ENTERPRISE INVOLVED IN THE ACT OR PRACTICE CONSTITUTING THE
23	VIOLATION;
24	(IV) REVOKE A LICENSE OR PERMIT FOR THE GAMBLING
25	ACTIVITY, DEVICE, OR ENTERPRISE INVOLVED IN THE ACT OR

PRACTICE CONSTITUTING THE VIOLATION;
(V) IMPOSE A CIVIL PENALTY NOT TO EXCEED \$10,000 FOR
EACH VIOLATION, WHETHER OR NOT THE PERSON IS LICENSED BY THE
DEPARTMENT; AND
(VI) IMPOSE ANY COMBINATION OF THE PENALTIES CONTAINED
IN THIS SUBSECTION (1)(B); AND
(C) BRING AN ACTION IN DISTRICT COURT FOR RELIEF
AGAINST THE ACT OR PRACTICE. THE DEPARTMENT MAY NOT BE
REQUIRED TO POST A BOND. ON PROPER SHOWING, THE COURT MAY:
(I) ISSUE A RESTRAINING ORDER, A TEMPORARY OR
PERMANENT INJUNCTION, OR OTHER APPROPRIATE WRIT:
(II) SUSPEND OR REVOKE A LICENSE OR PERMIT; AND
(III) APPOINT A RECEIVER OR CONSERVATOR FOR THE
DEFENDANT OR THE ASSETS OF THE DEFENDANT.
(2) A CIVIL PENALTY IMPOSED UNDER THIS SECTION MUST BE
COLLECTED BY THE DEPARTMENT AND DEPOSITED IN THE STATE'S
GENERAL FUND AS REQUIRED BY 23-5-123. IF A PERSON FAILS TO
PAY THE CIVIL PENALTY, THE AMOUNT DUE IS A LIEN ON THE
PERSON'S LICENSED PREMISES AND GAMBLING DEVICES IN THE STATE
AND MAY BE RECOVERED BY THE DEPARTMENT IN A CIVIL ACTION.
Section 9. Section 23-5-123, MCA, is amended to read:
"23-5-123. Disposal of money confiscated by reason of
violation of gambling laws. All money-seized-or-taken-by-any
peaceofficerandconfiscated byorder-of-any-court;-by

25 reason-of-a-violation-of-the-gambling-laws-of-the--state--of

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1	Montana ₇ -shall-be-deposited-with-the-county-treasurer-of-the
2	countyinwhich-such-seizure-and-confiscation-was-made-and
3	shall-be-credited-to-the-poor-fund-of-the-county- <u>All fines,</u>
4	penalties, forfeitures, and confiscated money collected by
5	criminal, civil, or administrative process for a violation
6	of a provision of parts 1 through 6 of this chapter or a
7	rule of the department must be deposited in a-special
8	revenue-account-for-use-by-the-department-for:
9	<u>{l}traininglawenforcementpersonnelinthe</u>
10	investigation-of-illegal-gambling-activity;
11	{2}trainingpersonslicensed-under-the-authority-of
12	the-department;-or
13	<u>t31funding-programs-designed-totreatpersonswith</u>
14	habitual-gambling-problems THE STATE'S GENERAL FUND."
15	NEW SECTION. Section 10. Qualifications for
16	licensure. (1) A person whom the department determines is
17	qualified to receive a license under the provisions of this
18	chapter, except for the provisions of part 10, may, BASED ON
19	INFORMATION AVAILABLE TO, REQUINED BY, OR SUPPLIED TO THE
20	DEPARTMENT UNDER DEPARTMENT RULES, be issued a state
21	gambling license.
22	{2}Theapplicanthastheburdenofprovinghis
23	qualification-to-receive-a-license-
24	(2) THE DEPARTMENT SHALL ISSUE A LICENSE UNLESS THE
25	DEPARTMENT CAN DEMONSTRATE THAT THE APPLICANT IS:

· .

1	(A) A PERSON WHOSE PRIOR ACTIVITIES OR CRIMINAL
2	RECORD:
3	(I) POSES A THREAT TO THE PUBLIC INTEREST OF THE STATE
4	OR THE EFFECTIVE REGULATION AND CONTROL OF GAMBLING; OR
5	(II) CREATES A DANGER OF ILLEGAL PRACTICES, METHODS, OR
6	ACTIVITIES IN THE CONDUCT OF GAMBLING OR IN THE CARRYING ON
7	OF THE BUSINESS AND FINANCIAL ARRANGEMENTS INCIDENTAL TO
8	GAMBLING; OR
9	(B) RECEIVING A SUBSTANTIAL AMOUNT OF FINANCING FOR
10	THE PROPOSED OPERATION FROM AN UNSUITABLE SOURCE. A LENDER
11	OR OTHER SOURCE OF MONEY OR CREDIT THAT THE DEPARIMENT FINDS
12	TO MEET THE PROVISIONS OF SUBSECTION (2)(A) MAY BE
13	CONSIDERED AN UNSUITABLE SOURCE.
14	(3) An-application-for-a A license may not be granted
15	unless the department is satisfied that the applicant is:
16	(a) a person of good character, honesty, and
17	integrity;
18	(b) a person whose prior activities, criminal record,
19	if any, reputation, habits, and associations do not:
20	(i) pose a threat to the public interest of the state
21	or to the effective regulation and control of gambling; or
22	(ii) create or-enhance-the-dangers <u>A DANGER</u> of illegal
23	practices, methods, and activities in the conduct of
24	gambling or in the carrying on of the business and financial
25	arrangements incidental to the conduct of gambling; and

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(c) in all other respects qualified to be licensed
 consistent with the declared gambling policy of the state.
 (4) A license to operate a gambling activity may not
 be issued unless the applicant has demonstrated to the
 department that:

6 (a) the applicant has adequate business probity,7 competence, and experience; and

8 (b) the proposed financing of the entire operation is:
9 (i) adequate for the nature of the proposed operation;
10 and

11 (ii) from a suitable source. A lender or other source 12 of money or credit that the department finds does not meet 13 the standards set forth in subsection (3) may be considered 14 unsuitable.

15 <u>NEW SECTION.</u> Section 11. Operator of gambling 16 establishment -- license -- fee. (1) It is a misdemeanor for 17 a person who is not licensed by the department as an 18 operator to make available to the public for play a gambling 19 device or gambling enterprise.

20 (2) An operator's license must include the following21 information:

22 (a) a description of the premises upon which the23 gambling will take place;

24 (b) the operator's name;

25 (c) a description of each gambling device or card game

table licensed to the operator by the department for play
 upon the premises, including the type of game and license
 number or decal number for each licensed game; and

4 (d) any other relevant information determined
5 necessary by the department.

6 (3) The operator's license must be issued annually
7 along with all other licenses for gambling devices or games
8 licensed to the operator.

9 (4) The operator's license must be updated each time a
10 gambling device or card game table license is newly issued
11 or the device or game is removed from the premises.

12 (5) The department may not charge a fee for the13 issuance of an operator's license.

14 (6) The operator's license must be prominently15 displayed upon the premises for which it is issued.

16 <u>NEW SECTION.</u> Section 12. Judicial review. (1) (a) A person aggrieved by a final order of the department may 18 obtain a review of the order in district court by filing 19 with the court, within 30 days after entry of the final 20 order, a written petition requesting that the order be 21 modified or set aside in whole or in part.

(b) A copy of the petition must be served upon the
department at the same time. When the department receives
the copy of the petition, it shall certify and file in court
a copy of the filing, testimony, and other evidence upon

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1 which the final order was entered by the department. When these have been filed with the court, the court has 2 exclusive jurisdiction to affirm, modify, enforce, or set 3 aside the final order in whole or in part. A temporary cease 4 and desist order from the department must MAY remain in 5 effect and-cannot-be-set-aside-by-the-court until a hearing 6 has been held and a final order has been issued pursuant to 7 8 [section 8].

9 (2) (a) The review must be conducted by the district 10 court without a jury and must be confined to the record. In 11 a case of alleged irregularity in procedure before the 12 department not shown in the record, proof may be taken by 13 the court. The court, upon request, shall hear oral argument 14 and receive written briefs.

(b) The court may not substitute its judgment for that 15 of the department as to the weight of the evidence on 16 questions of fact. The court may affirm the decision of the 17 department or remand the case for further proceedings. The 18 court may reverse or modify the decision if substantial 19 rights of the appellant have been prejudiced because the 20 administrative findings, inferences, conclusions, or 21 22 decisions are:

23 (i) in violation of a constitutional or statutory24 provision;

25 (ii) in excess of the statutory authority of the

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1	department;
2	(iii) made upon unlawful procedure;
3	(iv) affected by other error of law;
4	(v) clearly erroneous in view of the reliable,
5	probative, and substantial evidence on the whole record;
6	(vi) arbitrary or capricious or characterized by abuse
7	of discretion or clearly unwarranted exercise of discretion;
8	or
9	(vii) inadequate because findings of fact, upon issues
10	essential to the decision, were requested but not made.
11	(3) The commencement of proceedings under this
12	section, unless specifically ordered by the court, may not
13	operate as a stay of the department's final order.
14	Section 13. Section 23-5-131, MCA, is amended to read:
15	23-5-131. Losses at <u>ILLEGAL</u> gambling may be recovered
16	in civil action. If-any-persony-by-playing or-betting-at-any
17	ofthegamesprohibitedbythispart;-loses-to-another
18	person-any-sum-of-moneyorthingofvaice- addpaysor
19	deliversthesameoranypartthereoftoanyperson
20	connected-with-the-operating-orconductingofsuchgame;
21	eitherasowner;dealer;oroperator;-the-person-who-so
22	loses-and-pays-or-delivers-may;-at-any-time-within60days
23	nextafterthelossand-payment-or-delivery,-sue-for-and
24	recover-the-money-or-thing-of-valuesolostandpaidor
25	deliveredoranypartthereof-from-any-person-having-any

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1	interesty-direct-orcontingentyinthegameasownery
2	backeryorotherwiseywith-costs-of-suity-by-civil-action
3	before-any-court-of-competentjuriadictiontogetherwith
4	exemplary-damages-which-in-no-case-shall-be-less-than-\$50-or
5	morethan-\$5007-and-may-join-as-defendants-in-said-suit-all
6	per sons-having-any-interest-direct-or-contingentinsuch
7	gameasbackersyownersyor-otherwise- A person, or his
8	dependent or guardian, who, by playing or betting at an
9	illegal gambling device or illegal gambling enterprise,
10	loses money, property, or any other thing of value and pays
11	and delivers it to another person connected with the
12	operation or conduct of the illegal gambling device or
13	illegal gambling enterprise, within 1 year following his
14	loss, may:
15	(1) bring a civil action in a court of competent
16	jurisdiction to recover the loss;
17	(2) recover the costs of the civil action and
18	exemplary damages of no less than \$500 and no more than
19	\$5,000; and
20	(3) join as a defendant any person having an interest
21	in the illegal gambling device or illegal gambling
22	enterprise."
23	Section 14. Section 23-5-135, MCA, is amended to read:
24	*23-5-135. Discharge of defendant. Upon-discovery-and
25	repaymentofthemoneyorotherthing7theperson

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1	discoveringandrepayingthe-samer-with-costs-and-such-an
2	amount-of-exemplary-damages-as-may-beagreeduponbythe
3	partics-or-fixed-by-the-courty-shall-be-acquitted-and
4	discharged-from-any-further-or-other-forfeiture;-punishment;
5	penalty7-or-prosecution-he-or-they-may-have-incurred-forso
6	winningsuchmoneyorthing-discovered-and-repaid: (1) A
7	person against whom a civil action is brought as provided in
8	23-5-131 may move to have the action against him dismissed
9	if he has repaid to the person who suffered the loss or his
10	dependent the gambling loss, the costs of bringing the civil
11	action, and the exemplary damages agreed upon by the parties
12	or assessed by the court.
13	(2) A civil action brought to recover gambling losses
14	does not bar or interfere with another proceeding or action,
15	whether criminal, civil, or administrative, that may be
16	brought under the laws of the state.
17	(3) The clerk of the court shall notify the department
18	of a JUDGMENT IN A civil action based on a violation of a
19	provision of this chapter."
20	Section 15. Section 23-5-102, MCA, is amended to read:
21	*23-5-102. Gambling prohibitedpenalty. Except as
22	otherwise-provided-by-law,-a-person-who-engages-ingambling
23	in-any-form-with-cords,-dice,-or-other-implements-or devices
24	ofanykindwherein-anything-valuable-may-be-wagered-upon
25	theoutcomeorwhokeepsany #stablishment;place;

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equipment;--or--apparatus-for-such-gambling-or-any-agents-or employees-for-such-purpose-is-guilty-of-a-misdemeanor-and-is punishable-by-a-fine-of-not-less-than--\$100-or--more--than \$1:000-or-imprisonment-not-less-than-3-months-or-more-than-1 year--or--by--both--such--fine-and-imprisonment specifically authorized by statute, all forms of public gambling, lotteries, and gift enterprises are prohibited."

8 <u>NEW SECTION.</u> Section 16. Counterfeiting or defacing 9 documents -- penalty. (1) A person commits the offense of 10 counterfeiting or defacing a document when he purposely or 11 knowingly counterfeits, alters, or wrongfully displays a 12 seal, decal, license, identification number or device, or 13 other document issued by the department.

14 (2) A person convicted of the offense of
15 counterfeiting or defacing a document is guilty of a felony
16 and must be punished in accordance with [section 24].

17 Section 17. Section 23-5-108, MCA, is amended to read: "23-5-108. Soliciting or persuading persons to visit 18 19 play illegal gambling resorts device prohibited. Any-person who-persuades-or-solicits-another-to-visit-any--room7--tent7 20 apartment;--or--place--used--or--represented--by--the-person 21 soliciting-or-persuading-to-be-a-place-used-for-the--purpose 22 23 of-running-any-of-the-games-prohibited-by-this-part-shall-be 24 punished-by-a-fine-of-not-less-than-\$100-or-more-than-\$17000 25 or--imprisonment--not-less-than-3-months-or-more-than-1-year

ı or-by-both-such-fine-and-imprisonment-in-the-county-jail- A 2 person who advertises for or solicits another person to play 3 or engage in the use of an illegal gambling device is quilty 4 of a misdemeanor and is punishable under [section 23]." NEW SECTION. Section 18. Obtaining anything of value 5 by fraud or operation of illegal gambling device or 6 7 enterprise. (1) A person who by gambling obtains money, property, or anything of value that does not exceed \$300 in я ٩ value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty 10 of a misdemeanor and is punishable as provided in [section 11 12 231. 13 (2) A person who by gambling obtains money, property, 14 or anything of value that exceeds \$300 in value by misrepresentation. fraud, or the use of an illegal gambling 15 16 device or an illegal gambling enterprise is guilty of a 17 felony and is punishable as provided in [section 24].

18 NEW SECTION. Section 10. Gambling on cash basis. (1) In every gambling activity, EXCEPT RAFFLES AS AUTHORIZED IN 19 **FSECTION-411 23-5-413**, the consideration paid for the chance 20 to play must be cash. A participant shall present the money 21 needed to play the game as the game is being played. A 22 23 check, credit card, note, IOU, or other evidence of indebtedness may not be offered or accepted as part of the 24 price of participation in the gambling activity or as 25

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payment of a debt incurred in the gambling activity. <u>THE</u>
 <u>USE OF A CHECK OR CREDIT CARD TO PAY FOR OTHER GOODS OR</u>
 <u>SERVICES IN THE ESTABLISHMENT OR TO OBTAIN CASH IS NOT A</u>
 <u>VIOLATION OF THIS SECTION.</u>

5 (2) A person who violates this section is guilty of a
6 misdemeanor and must be punished in accordance with [section
7 23].

8 <u>NEW SECTION.</u> Section 20. Minors not to participate -9 penalty. (1) A <u>PERSON MAY NOT PURPOSELY OR KNOWINGLY ALLOW A</u>
10 person under 18 years of age may--not--be-permitted to
11 participate in a gambling activity.

12 (2) A person who violates this section is guilty of a
13 misdemeanor and must be punished in accordance with [section
14 23].

15 Section 21. Section 23-5-103, MCA, is amended to read: 16 "23-5-103. Possession of illegal gambling implements 17 device prohibited -- exception. Any (1) Except as provided 18 in faction-221 23-5-104 and subsection (2) of this section, 19 it is a misdemeanor punishable under [section 23] for a 20 person who--has to PURPOSELY OR KNOWINGLY have in his 21 possession or under his control or who-permits to PURPOSELY 22 OR KNOWINGLY permit to be placed, maintained, or kept in any 23 room, space, enclosure, or building owned, leased, or 24 occupied by him or under his management or control any-fare 25 box7-faro--layout7--roulette--wheel7--roulette--table7--erap SB 0431/05

1	table;punchboard;or-any-machine-or-apparatus-of-the-kind
2	mentioned-in-23-5-102-is-punishable-by-a-fineofnotless
3	than\$100-or-more-than-\$17000-and-may-be-imprisoned-for-not
4	less-than-3-months-or-more-than-l-year-in-the-discretionof
5	thecourt;provided-that-this-section-shall-not an illegal
6	gambling device. This section does not apply to a public
7	officer or to a person coming into possession thereof of an
8	illegal gambling device in or by reason of the performance
9	of an official duty and holding the-same it to be disposed
10	of according to law.
11	(2) (a) The department may adopt rules to license
12	persons to manufacture gambling devices that are not legal
13	for public play in the state and are manufactured only for
14	export from the state.
15	(b) A person may not manufacture or possess an illegal
16	gambling device for export from the state without having
17	obtained a license from the department. The department may
18	charge an administrative fee for the license that is
19	commensurate with the cost of issuing the license."
20	Section 22. Section 23-5-104, MCA, is amended to read:
21	"23-5-104. Slot-machinespossessionunlawful
22	exception Possession of antique slot machines. (1) Except-as
23	providedinsubsections{2} ·· through{5}it ·shail-be-a
24	misdemeanor-and-punishable-as hereinafter-providedforany
25	persontouse;-possess;-operate;-keep;-or-maintain-for-use

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1	or-operation-or-otherwise,anywherewithinthestateof
2	Montana,-any-stot-machine-of-any-sort-or-kind-whatsoever.
3	{2}Pheprovisionsof-subsection-{1}-and-23-5-121-do
4	not-apply-to-antique-slot-machines-possessed7located7and
5	used-in-accordance-with-subsections-{2}-through-{5}+-Por-the
6	purposesofsubsections(2)through-(5)7-an-antique-slot
7	machine-is-a-slot-machine-manufactured-priorto19507the
8	operationofwhich-is-exclusively-mechanical-in-nature-and
9	is-not-aided-in-whole-or-in-part-by-any-electronic-means. An
10	antique-slot-machine-is-a-slot-machine-manufactured-prior-to
11	1950-that-is-operated-exclusively-by-mechanical-means-and-is
12	not-aided-in-whole-or-in-part-by-any-electricalmeans- FOR
13	THE PURPOSES OF THIS SECTION, AN ANTIQUE SLOT MACHINE IS A
14	SLOT MACHINE MANUFACTURED PRIOR TO 1950, THE OPERATION OF
15	WHICH IS EXCLUSIVELY MECHANICAL IN NATURE AND IS NOT AIDED
16	IN WHOLE OR IN PART BY ANY ELECTRONIC MEANS.
17	<pre>f3;(2) Except as provided in subsection (4) (3), an</pre>
18	antique slot machines machine may be possessed, located, and
19	operated only in a private residential dwelling.
20	(4)(3) Antiqueslotmachines An antique slot machine
21	may be possessed or located for purposes of display only and
22	not for operation in any public museum owned and operated by
23	the state of-Montane, or a county, or a city. A LICENSED
24	MANUFACTURER-DISTRIBUTOR MAY POSSESS AND SELL ANTIQUE SLOT
25	MACHINES.

1 (5)(4) No antique slot machine may be operated for any 2 commercial or charitable purpose."

NEW SECTION. Section 23. Criminal liabilities 3 misdemeanor. A person who purposely or knowingly violates a 4 provision of parts 1 through 6 of this chapter, the 5 punishment of which is for a misdemeanor, must, upon 6 7 conviction, OF A FIRST OFFENSE be fined not less MORE than 8 \$500 or-more-than-\$5,000, or-imprisoned-for-not-more-than-1 9 yeary-or-bothy-for-each-violation. UPON A SECOND CONVICTION 10 WITHIN 5 YEARS OF A FIRST CONVICTION, A PERSON MUST BE FINED 11 NOT MORE THAN \$1,000 OR IMPRISONED IN THE COUNTY JAIL FOR 12 NOT MORE THAN 6 MONTHS, OR BOTH. UPON A THIRD CONVICTION 13 WITHIN 5 YEARS OF A SECOND CONVICTION, A PERSON MUST BE 14 FINED NOT MORE THAN \$10,000 OR IMPRISONED IN THE COUNTY JAIL 15 FOR NOT MORE THAN 1 YEAR, OR BOTH. UPON A FOURTH CONVICTION 16 WITHIN 5 YEARS OF A THIRD CONVICTION, A PERSON MUST BE FINED 17 NOT MORE THAN \$10,000 OR IMPRISONED IN THE COUNTY JAIL FOR 18 NOT MORE THAN 1 YEAR, OR BOTH, AND THE DEPARTMENT SHALL 19 REVOKE ALL LICENSES AND PERMITS THE PERSON HOLDS UNDER PARTS 20 1 THROUGH 6 OF THIS CHAPTER AND THE PERSON IS FOREVER BARRED 21 FROM RECEIPT OF ANY LICENSE OR PERMIT UNDER THIS CHAPTER. 22 WHEN 5 YEARS HAVE PASSED FOLLOWING A CONVICTION, THE RECORD 23 OF THAT CONVICTION MAY BE MADE AVAILABLE ONLY TO CRIMINAL 24 JUSTICE ACENCIES OR UPON COURT ORDER. 25 NEW SECTION. Section 24. Criminal liabilities

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felony. A person who purposely or knowingly violates a 1 2 provision of parts 1 through 6 of this chapter, the 3 punishment for which is a felony, may upon conviction be 4 fined not more than \$50,000 or imprisoned for not more than 10 years, or both, for each violation. Howevery--if--the 5 person--previously--has-been-convicted-of-a-felony-involving 6 7 a--gambling---device,---gambling---activity,---or---gambling 8 enterprise7-he-must-be-imprisoned-for-at-least-2-years-

NEW SECTION. Section 25. Prosecution. 9 The county attorney of the county in which a violation of a provision 10 of parts 1 through 6 of this chapter occurs shall prosecute 11 all gambling actions within the jurisdiction of 12 the 13 department. However, if the county attorney declines 14 prosecution or fails to commence an action within a reasonable time, the attorney general may initiate and 15 conduct the prosecution on behalf of the state. 16

17 Section 26. Section 23-5-311, MCA, is amended to read: 18 "23-5-311. Authorized card games. (1)-It--is--unlawful 19 for-any-person-to-conduct-or-participate-in-any-card-game-or 20 make--any--tables--available--for--the-playing-of-card-games 21 except-those-card-games-authorized-by-this-part;

t2t(1) The card games authorized by this part are and
are limited to the card games known as bridge, cribbage,
hearts, panguingue, pinochle, pitch, poker (INCLUDING JACKS
OR BETTER), rummy, solo, and whist-solo-and-poker.

1 (2) A person may only conduct or participate in a live 2 card game or make a live card game table available for 3 public play of a live card game that ONLY IF IT is 4 specifically authorized by this part and described by 5 department rules.

6 (3) This part does not apply to games simulated on.
7 electronic video gambling machines authorized under part 6
8 of this chapter."

<u>NEW SECTION.</u> Section 27. Presence and control of
dealer. A live card game may not be played except on a live
card game table in the presence and under the control of a
licensed dealer on the premises of a licensed operator.

13 <u>NEW SECTION.</u> Section 28. Card game dealers -14 license. (1) A person may not deal cards in a live card game
15 without being licensed annually by the department.

16 (2) The fee for each <u>THE FIRST</u> year in which the
17 license is effective must--be--commensurate--with--the
18 administra:ive-costs-associated--with--dealer licensing--as
19 established--by--department--rules <u>IS \$75, AND THE ANNUAL</u>
20 RENEWAL FEE IS \$25. The fee may not be prorated.

21 (3) The department shall retain for administrative
22 purposes the license fee charged for the issuance of a
23 dealer's license.

24 (4) A licensed dealer shall have on his person, and25 display upon request, his dealer's license when he is

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1 working as a dealer.

2 (5) The department may SHALL adopt rules to implement 3 temporary licensing procedures until a permanent license is issued to a dealer. THE RULES MUST PROVIDE THAT A TEMPORARY 4 5 LICENSE MAY BE OBTAINED AT THE PLACE WHERE A PERSON LOCALLY 6 APPLIES FOR A DRIVER'S LICENSE AND THAT THE RECEIPT RECEIVED UPON MAILING AN APPLICATION FOR A PERMANENT LICENSE BY 7 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ALSO CONSTITUTES A 8 TEMPORARY LICENSE. The department may delegate-the-authority 9 to-issue-temporary-licenses-to-local--governments--including 10 the--authority--to NOT assess and--retain a fee for the 11 12 temporary license.

NEW SECTION. Section 29. Live card game table --13 permit -- fees -- disposition of fees. (1) A person who has 14 been granted an operator's license under [section 11] and a 15 license under 16-4-401(2) to sell alcoholic beverages for 16 consumption on the premises OR-WHO-OFERATES-AN-ESTABLISHMENT 17 POR-THE-PRINCIPAL-PURPOSE-OF-GAMING-AND-HAS-BENN-GRANTED-AN 18 OPERATOR 15--6feense--UNDER--{Section--11} may be granted an 19 annual permit for the placement of live card game tables. 20

21 (2) The annual permit fee in lieu of taxes for each
22 live card game table operated in a licensed operator's
23 premises may not be prorated and must be:

24 (a) \$250 for the first table; AND

25 (b) \$750 \$500 for the-second-table;-and

2 (3) The department shall retain for administrative
3 purposes \$100 of the fee collected under this part for each
4 live card game table.

5 (4) The department shall forward on a guarterly basis 6 the remaining balance of the fee collected under subsection 7 (2) to the treasurer of the county, or the clerk, finance 8 officer, or treasurer of the city or town in which the live 9 card game table is located for deposit to the county or 10 municipal treasury. A COUNTY IS NOT ENTITLED TO PROCEEDS 11 FROM FEES ASSESSED ON LIVE CARD GAME TABLES LOCATED IN 12 INCORPORATED CITIES AND TOWNS WITHIN THE COUNTY. The-local 13 government-portion-of-this-fee-is--statutorily--appropriated 14 to-the-department-as-provided-in-17-7-502-for-deposit-to-the 15 county--or--municipal-treasury, THE LOCAL GOVERNMENT PORTION 16 OF THIS FEE IS STATUTORILY APPROPRIATED TO THE DEPARTMENT. 17 AS PROVIDED IN 17-7-502, FOR DEPOSIT TO THE COUNTY OR 18 MUNICIPAL TREASURY. 19 Section 30. Section 23-5-321, MCA, is amended to read: 20 "23-5-321. bicensing Issuance of permits by local 21 governing bodies prohibited. (1)-Any A city, town, or county 22 may not issue licenses permits for the live card games 23 provided-for or live card game tables authorized in this 24 part. to--be-conducted-on-premises-which-have been-licensed 25 for-the-sale-of-liquor;-beer;-food;-cigarettes;-or-any-other

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1 consumable--products:--Within--the--cities--or--towns;--such 2 licenses--may--be--issued--by--the--city--or-town-council-or 3 4 the-limits-of-any-city-or-town-may-be-issued-by--the--county 5 commissioners-of-the-respective-counties--When-a-license-has been--required--by--any--eity--town--or-county-no-game-as 6 7 provided-for-in-this-part-shall-be-conducted-on-any-premises 8 which-have-been-licensed-for-the-sale-of-liquor;-beer;-food; 9 cigarettes;-or-any-other--consumable--product--without--such license-having-first-been-obtained-10

11 f21--Any--governing--body--may-charge-an-annual-license 12 fee-for-each--license--so--issued--under--this--part7--which 13 license--fee7--if-any7-shall-expire-on-June-30-of-each-year7 14 and-such-fee-shall-be-prorated-

15 f3)--Anv-license-issued-pursuant-to-this-part-shall--be 16 deemed--to--be--a-revocable-privileger-and-no-holder-thereof 17 may-acquire-any-vested-rights-therein-or-thereunder-"

Section 31. Section 23-5-312, MCA, is amended to read: 18 19 *23-5-312. Prizes not to exceed one three ONE THREE 20 hundred dollars. No--prize--for--any-individual-game-shall 21 exceed-the-value-of-\$100. A prize for an individual live 22 card game may not exceed the value of \$300 \$100 \$300. Games 23 shall may not be combined in any manner so as to increase 24 the value of the ultimate prize awarded."

NEW SECTION. Section 32. Live card game tables ---25

2 tables must be closed for play between the hours of 2 a.m. and 8 a.m. each day. However, -- in--the--jurisdiction--of--a 3 tocal--covernment--where--the--table--is--located;-the-local 4 government-may-adopt-an-ordinance-defining-the-hours-of-play 5 within-that-jurisdiction, HOWEVER, IN THE JURISDICTION OF A б. LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL 7 a GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2 q A.M. AND 8 A.M. 10 Section 33. Section 23-5-313, MCA, is amonded to read: 11 *23-5-313. Rules of play to be posted -- rake-off approved. Rules governing the conduct of each game shall 12 13 must be prominently posted within the sight of the players at a live card game table on the premises of any--licensed 14 establishment--where--such--game--is--conducted a licensed 15 16 operator. Such The rules shall must include notice of the 17 maximum percentage rake-off, if any, and shall must require 18 that the person taking the rake-off do so in an obvious manner and--only--after--announcing--the--amount--of--each 19 20 rake-off;-which-shall-only-be-taken--at--the--conclusion--of 21 each--qame--when--the-winner-of-each-individual-pot-has-been determined."

hours of play -- restriction ---exception. Live card game

23 Section 34. Section 23-5-331, MCA, is amended to read: *23-5-331. Penalty. Every A person who willfully 24 25 purposely or knowingly violates or who procures, aids, or

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abets in the--willful <u>a</u> violation of this part or any ordinance, resolution, or regulation <u>rule</u> adopted pursuant thereto-shall--be--deemed to this part is guilty of a misdemeanor and-upon-conviction-shall-be-punished-by-a-fine of-not-more-than-917000-or-imprisonment-in-the--county--jail for--not--more-than-3-months,-or-both <u>punishable pursuant to</u> [section 23]."

NEW SECTION. Section 35. Authorized live bingo, keno,
and raffles. (1) A person may only conduct or participate in
a live bingo and keno game or raffle <u>ONLY IF IT IS</u> operated
pursuant to this part.

12 (2) This part does not apply to a game simulated on a 13 video gambling machine authorized by part 6 of this chapter. NEW SECTION. Section 36. Exempt. charitable 14 organizations. An organization qualified for exemption under 15 26 U.S.C. 501(c)(3) and (c)(4) ON JANUARY 15, 1989, is 16 17 exempt from the taxation and license fees imposed by this AN ORGANIZATION QUALIFIED FOR EXEMPTION UNDER THAT 18 part. 19 SECTION AFTER THAT DATE IS EXEMPT FROM TAXATION UNDER, AND 20 NEED ONLY PAY ONE-HALF THE LICENSE FEES UNDER, THIS PART IF THE ORGANIZATION CARRIES ON GAMBLING ACTIVITIES FOR NO MORE 21 THAN 60 DAYS A CALENDAR YEAR AND IF THE ACTIVITIES ARE 22 LIMITED TO ITS MAIN PREMISES OR PLACE OF OPERATIONS AND TO 23 EVENTS AT OTHER PLACES OPERATED BY OTHER CHARITABLE 24 ORGANIZATIONS OR BY A GOVERNMENT UNIT OR ENTITY. The 25

1 organization shall comply with other statutes and rules 2 relating to the operation of live bingo and keno or raffles. 3 A qualified organization shall apply to the department for a 4 cost-free permit to conduct charitable live bingo and keno games or raffles. THE DEPARTMENT MAY REVOKE OR SUSPEND THE 5 PERMIT OF A QUALIFIED ORGANIZATION THAT, AFTER 6 INVESTIGATION, THE DEPARTMENT DETERMINES IS CONTRACTING WITH 7 8 A NONQUALIFIED ORGANIZATION TO OPERATE LIVE BINGO, KENO, OR RAFFLES IN A PREDOMINANTLY COMMERCIAL MANNER. 9 NEW-SECTION---Section-37.--Bingo-and--kens--callers----10 11 qualifications----license----feet--(1)-A-person-may-not-act 12 as-a-bingo-or-keno-caller-without-being-licensed-annually-by 13 the-department. 14 t2)--The-fee-for-each-year--in--which--the--license--is 15 effective--must--be--commensurate--with-the-costs-associated 16 with-bingo--or--keno--caller--licensing--as--established--by department-rules--The-fee-may-not-be-proraced-17 18 t3)--The--department--shall--retain--for usainistrative purpose s-the-license-fee-charged-for-the-issuance-of-a-bingo 19 20 or-keno-calleris-license-21 (4)--A-bingo-or-keno-caller-shall-have-on--his--person7 22 and-display-upon-request7-his-bingo-or-keno-caller's-license 23 whenever-he-is-working-as-a-bingo-or-keno-caller-24 (5)--The---department--may- adopt--rules--to--implement 25 temporary-licensing-procedures-until-a-permanent-license--is

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1 issued---The--department-may-delegate-the-authority-to-issue 2 temporary--licenses--to--local--governments;--including--the 3 authority--to--assess--and--retain--a--fee--for--a-temporary 4 license-

5 <u>NEW SECTION.</u> Section 37. Live bingo or keno permit --6 fees -- disposition of fees. (1) A person who has been 7 granted an operator's license may be granted an annual 8 permit by the department to conduct live bingo or keno games 9 on specified premises.

(2) The permit fee for each of the premises in which a
live bingo or keno game is conducted may not be prorated and
must be \$500.

13 (3) The department shall retain the permit fee for14 administrative costs.

15 NEW SECTION. Section 38. Bingo and keno gross proceeds tax -- records -- distribution -- quarterly 16 17 statement and payment. (1) A licensee who has received a 18 permit to operate bingo or keno games shall pay to the 19 department a tax of 3% 5% of the gross-proceeds NET INCOME 20 from the operation of each live bingo and keno game operated 21 on his premises. FOR PURPOSES OF THIS SECTION, "NET INCOME" MEANS GROSS PROCEEDS. AS DEFINED IN 23-5-101, MINUS THE COST 22 OF EQUIPMENT, SUPPLIES, PERSONNEL, AND ADVERTISING ALLOCATED 23 24 TO THE GAMES. IF IN ANY YEAR 5% OF NET INCOME DOES NOT EQUAL 25 1% OF GROSS PROCEEDS, THEN THE LICENSEE SHALL PAY A TAX OF

1 1% OF GROSS PROCEEDS.

2 (2) A licensee shall keep a record of gross proceeds
3 <u>AND NET INCOME</u> in the form the department requires. At all
4 times during the business hours of the licensee the records
5 must be available for inspection by the department.

6 (3) A licensee shall; within-15-days-after-the-end--of 7 each---quarter, ANNUALLY complete and deliver to the 8 department a statement showing the total gross proceeds AND 9 NET INCOME for each live keno or bingo game operated by him 10 and the total amount due as live bingo or keno gross 11 proceeds tax for the preceding quarter YEAR. This statement 12 must contain any other relevant information required by the 13 department.

14 (4) The department shall forward the tax collected 15 under subsection (3) to the treasurer of the county or the 16 clerk, finance officer, or treasurer of the city or town in 17 which the licensed game is located for deposit to the county 18 or municipal treasury. A county is not entitled to proceeds from taxes on live bingo or kend game located in 19 20 unincorporated INCORPORATED cities and towns within the 21 county. The---tax---collected---under--subsection--(3)--is 22 statutorily-appropriated-to-the-department--as--provided--in 17-7-502--for--deposit--to-the-county-or-municipat-treasury-23 24 THE TAX COLLECTED UNDER SUBSECTION (3) IS STATUTORILY 25 APPROPRIATED TO THE DEPARTMENT, AS PROVIDED IN 17-7-502, FOR

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1 DEPOSIT TO THE COUNTY OR MUNICIPAL TREASURY.

Section 39. Section 23-5-412, MCA, is amended to read: 2 3 "23-5-412. Bingo Card prices and prizes. The price for an individual bingo or keno card may not exceed 50 cents. 4 Bingo prizes may be paid in either tangible personal 5 property or cash---except--that--a--prize--must-be-paid-in 6 7 tangible-personal-property--if--the--game--is--played--on--a player-operated--electronic-video-game-machine. A prize may 8 9 not exceed the value of \$100 \$300 \$100 for each individual bingo award or keno card. The price for an individual bingo 10 card-may-not-exceed-50-cents- It shall-be is unlawful to, in 11 any manner, combine any awards so as to increase the 12 ultimate value of such the award. A PLAYER MAY GIVE THE 13 CALLER A CARD WITH INSTRUCTIONS ON THE CARD TO PLAY THAT 14 15 CARD AND ITS MARKED NUMBERS FOR UP TO THE NUMBER OF SUCCESSIVE GAMES THAT THE HOUSE ALLOWS AND THAT THE PLAYER 16 HAS INDICATED ON THE CARD, UPON PAYMENT OF THE PRICE PER 17 GAME TIMES THE NUMBER OF SUCCESSIVE GAMES INDICATED. THE 18 PLAYER SHALL REMAIN ON THE HOUSE PREMISES UNTIL THE CARD IS 19 PLAYED OR WITHDRAWN. THE CALLER SHALL KEEP THE CARD UNTIL 20 21 THE END OF THE NUMBER OF GAMES INDICATED, AND THE DEPARTMENT 22 MAY BY RULE PROVIDE THAT AT THAT TIME THE CALLER SHALL PAY THE PLAYER ANY PRIZES WON." 23 Section 40. Section 23-5-413, MCA, is amended to read: 24 "23-5-413. Raffle prizes restricted----exemption --25

1 PERMITS -- EXCEPTION. (1) Raffle prizes must-be-in--tangible 2 personal--property -only--and--not--in--money; cash--stocks. 3 bonds;--evidences--of--indebtedness;--or--other----intensible personal--property--and must not exceed the value of \$1,000 4 for each individual raffle card ticket. It shall-be is 5 6 unlawful to, in any manner, combine any awards so as to 7 increase the ultimate value of such-award the prize awarded 8 for each ticket. 9 (2) A separate permit must be issued by the board of 10 county commissioners for each raffle conducted within its jurisdiction. The permit must be issued refore the raffle 11 may be conducted. A person who has conducted a raffie must 12 13 submit an accounting to the board of county commissioners 14 within 30 days following the completion of the raffle. The 15 sale of raffle tickets authorized by this part is restricted to events and participants within the geographic confices of 16 17 the state. 18 (2)(3) (a) The restrictions of subsection (1) do not apply to a raffle conducted by a nonprofit corporation, 19 20 religious corporation sole, or other nonprofit organization 21 when if the corporation or organization is licensed 22 permitted by the board of county commissioners to conduct 23 the raffle. A-separate-license-shall-be--required--for--each 24 raffle-conducted-25 (b) The nonprofit organization or corporation seeking

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the-license permission under subsection (2)(3)(a) must shall
 apply to the board of county commissioners for the license
 permit and must provide the following information:

4 (i) the cost and number of raffle tickets to be sold;
5 (ii) the charitable purposes the proceeds of the raffle
6 are intended to benefit; and

(iii) the proposed prizes and their value.

7

8 (c) The proceeds from the sale of the raffle tickets 9 are-to may be used only for charitable purposes or to pay 10 for prizes. The raffle prize must be in tangible personal 11 property only and not in money, cash, stock, bonds, evidence 12 of indebtedness, or other intangible personal property. None 13 of the proceeds may be used for the administrative cost of 14 conducting the raffle.

15 (d)--The--corporation--or--organization--conducting-the 16 raffle-must-submit-an-accounting--to--the--board--of--county 17 commissioners-within-30-days-following-the-completion-of-the 18 raffle=--The-person-or-persons-submitting-the-application-to 19 the-board-of-county-commissioners-along-with-the-corporation 20 or-organization-conducting-the-raffle-shall--be--responsible 21 for--submitting--the--accounting--to--the--board--of--county 22 commissioners="

Section 41. Section 23-5-414, MCA, is amended to read:
 23-5-414. Restrictions on bingor and kenor-and-raffles
 ---bingo-or-keno-machines-in-establishment-limit----hours-of

operation----exception. (1) In the playing of <u>live</u> bingo or
 keno, no <u>a</u> person who is not physically present on the
 premises where the game is actually conducted shall may not
 be allowed to participate as a player in the game.

5 (2)--Raffles---authorized---by---this---part--shall--be 6 restricted-to-events-and-participants-within-the--geographic 7 confines-of-the-state-of-Montana-

8 (3)--No---establishment---may--receive--licenses--under 9 23-5-421-for-or-make-available-for-play-more-than--15--bingo 10 or--keno--machinest--A--local--governing--bodyr-howeverr-may 11 restrict-the-number-of-licensed-machines-available-for--play 12 in-an-establishment-to-less-than-157-but-most-allow-at-least 13 5t

14 (4)--(a)-Except--as--provided--in-subsection-(4)(b);-an 15 establishment-that-receives-a-license-to--make--a-bingo--or 16 keno--machine--available for-play-must-have the-machine-shut 17 off-each-day-during--the--houra--provided--in--16-3-304--for 18 elosure---off---licensed corectil alcoholie----beverage 19 establishments: 20 (b)--A-local-governing-body-may establishmany-hours--off

21 play-for-bingo-or-keno-machines-that-it-determines-propert"

NEW SECTION. Section 42. Hours of play -restrictions ---penalty. (1) A live bingo or keno game must
be closed for play between the hours of 2 a.m. and 8 a.m. of
each day. However, -in-the-jurisdiction of -a-local-government

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1 where-the-live-bingo-or--keno--game--is--played;--the--local 2 government--may--adopt--an-ordinance-defining-other-hours-of 3 play-within-that-jurisdiction-

4 +2+--A-violation--of--this--section--is--a--misdemeanor 5 punishable--under-fsection-231- HOWEVER, IN THE JURISDICTION 6 OF A LOCAL GOVERNMENT WHERE A GAME IS PLAYED. THE LOCAL GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2 7 A.M. AND B A.M. 8

9 Section 43. Section 23-5-431, MCA, is amended to read: 10 *23-5-431. Penalty Criminal penalty. Every A person who willfully purposely or knowingly violates or who 11 12 procures, aids, or abets in the-willful a violation of this 13 part or any ordinance, resolution, or regulation rule adopted pursuant thereto-shall-be-deemed to this part is 14 15 quilty of a misdemeanor and--upon--conviction--shall--be punished-by-a-fine-of-not-more-than-\$1,000--or--imprisonment 16 in--the--county--jail--for--not--more-than-3-months;-or-both 17 punishable pursuant to [section 23]." 16

Section 44. Section 23-5-602, MCA, is amended to read: 19 "23-5-602. Definitions. As used in this part, the 20 21 following definitions apply:

22 (1) "Associated equipment" means all proprietary devices, machines, or parts used in the manufacture or 23 24 maintenance of a video draw--poker gambling machine, including but not limited to integrated circuit chips, 25

printed wired assembly, printed wired boards, printing 1 2 mechanisms, video display monitors, and metering devices. 3 and cabinetry.

f2)--"Bepartment"-means-the-department-of-commercer

(2) "Bingo machine" means an electronic video gambling 5 machine that, upon insertion of cash, is available to play 6 bingo as defined by rules of the department. The machine 7 utilizes a video display and microprocessors in which, by 8 9 the skill of the player, by chance, or both, the player may 10 receive free games or credits that may be redecated for cash. 11 The term does not include a slot machine or a machine that 12 directly dispenses coins, cash, tokens, or anything else of 13 value. (3) "Draw poker machine" means an electronic video 14 gambling machine that, upon insertion of cash, is available 15 16 to play or simulate the play of the game of draw poker, as 17 defined by rules of the department. The machine utilizes a 18 video display and microprocessors in which, by the skill of 19 the player, by chance, or both, the player may receive free 20 games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly 21 22 dispenses coins, cash, tokens, or anything else of value. 23 (3)(4) "Keno machine" means an electronic video game gambling machine that, upon insertion of cash, is available 24 to play or-simulate-the-play-of-the-game-of keno or-bingo as 25

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1	providedinpart4of-this-chapterutilizing defined by
2	rules of the department. The machine utilizes a video
3	display and microprocessors, in which, by the skill of the
4	player, or by chance, or both, the player may receive free
5	games or credits that can may be redeemed for cash. The term
6	does not include a <u>slot machine or a</u> machine that directly
7	dispenses coins, cash, tokens, or anything else of value.
8	(4)"bicensed-establishment"-means:
9	(a)with-respect-to-the-licensure-of-keno-machines;-an
10	establishment-that-is-licensed-to-sellalcoholicbeverages
11	for-consumption-on-the-premises-or-an-establishment-licensed
12	under-23-5-421;-and
13	<pre>(b)withrespect-to-the-lic insure-of-wideo-draw-poker</pre>
14	machines;anestablishmentthatislicensedtosell
15	alcoholic-beverages-for-consumption-on-the-premises-
16	(5)"bicensee"meansanindividual;partnership;
17	corporation, or association that has been issued a license
18	bythedepartment-for-the-placement-and-operation-of-video
19	drawpokermachinesorkenomachinesinthelicensed
20	establishmentofthe-individual,-partnership,-corporation,
21	OT-8550ciation-
22	<pre>(6)"Manufacturer-distributor"meansanindividual;</pre>
23	partnership;corporation;orassociationthat-assembles;
24	produces;-and-makes-or-supplies-video-draw-poker-machines-or
25	associated-equipment-for-sale;-use;-or-distribution-inthis

. .

state: (7)(5) "Net machine income" means money put into a video draw-poker-or-keno gambling machine minus credits paid out in cash. (8)--"Used-keno-machine"-means-a-keno-machine;-as--that term--is-defined-in-this-section;-that-is-owned-or-possessed by-an-applicant-on-the-day-he-applies-for-a-license-for--the used--machine--and--that--was-owned-or-operated-in-the-state prior-to-dune-30;-1907; (9)--"Used-video-draw-poker-machine"-means-a-video-draw

10 poker-machiney-as-that-term--is--defined--in--this--section; 11 which--is--owned--or-possessed-by-an-applicant-on-the-day-he 12 13 applies-for-a-license-for-the-used--machine--and--which--waa 14 owned-or-operated-in-the-state-prior-to-February-37-1984-(10)-"Video--draw--poker--machine"--means-an-electronic 15 video--game--machine--that---upon--insertion--of--cash;---is 16 available--to--play-or-simulate-the-play-of-the-game-of-draw 17 poker-ras-provided in-this-party-utilizing an video display 18 19 and--microprocessors-in-which,-by-the-skill of the player-or 20 by-chance;-or-both;-the-player-may--receive--free--games--or 21 credits--that--can--be--redeemed-for-cash--The-term-does-not 22 include-a--machine--that--directly--dispenses--coins,--cash; 23 tokensy-or-anything-else-of-value-(6) "Video gambling machine manufacturer-distributor" 24 25 means a person who assembles, produces, makes, OR supplies;

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01-	-repairs video gambling machines or associated equipment
for	sale, use, or distribution in the state."
	Section 45. Section 23-5-603, MCA, is amended to read:
	"23-5-603. Video draw-poker-or-keno gambling machines
	possession play hours-of-play restriction. (1)
No-	person-may-place-an-electron c-videogamemachinethat
sim	ulatesoroffers-a-game-of-poker;-bingo;-or-keno-in-his
±±e	ensed-establishment-unless-he-is-licensed-under-23-5-612.
<u>A p</u>	person may only make available for public play ONLY the
NUM	IBER OF APPROVED video gambling machines specifically
aut	horized by this part.
	(2) The video gambling machines specifically
<u>a</u> ut	thorized by this part are bingo, keno, and draw poker
mac	chines. A-person-may-not-make-available-for-public-playa
Vie	deogambling-machine-unless-he-has-obtained-an-operator's
<u>±</u> ±c	censer Machineslicensed Only THE NUMBER OF APPROVED
mac	chines for which permits have been granted under 23-5-612
arı	e-legal;-and-it-is-legal-toplaysuchmachines;except
th	at-a-person-under-the-age-of-18-years-may-not-play-a-video
dr	aw-poker-or-keno-machine may be made available for play by
th	e public on the premises of a licensed operator.
	{2}Exceptasprovidedinsubsection{3},a
es	tablishment-that-receives-a-license-to-make-avideodraw
•	kermachine-available-for-play-must-have-the-machine-shut
of	E-each day-duringthehoursprovidedin16~3-304for

closureoflicensedretailalcoholicbeverage
establishments.
(3)A-local-governing-body-may-establish-any-hoursof
playforvideodrawpokermachinesthatit-determines
proper-
(4)The-provisions-of-part-3-of-thischapterdonot
spplytoorprohibit-video-draw-poker-or-kend-machimes-or
the-playing-of-such-machines-
(3) MACHINES ON PREMISES LICENSED TO SELL ALCOHOLIC
BEVERAGES FOR CONSUMPTION N THE PREMISES MUST BE FIACED IN
THE ROOM, AREA, OR OTHER PART OF THE PREMISES IN WHICH THE
ALCOHOLIC BEVERAGES ARE SOLD AND NORMALLY CONSUMED."
Section 46. Section 23-5-611, MCA, is amended to read:
"23-5-611. State-license Machine permit qualifications
limitationsright-to-hearing. (1) (a)-A-person-who-has

17 beverages-for-consumption-on-the-premises may-be--granted--a

been-granted--a-license-under-16-4-401(2)-to-sell-alcoholie

- 18 license--for--the--placement-of-wideu-draw-power anehines-in
- his-licensed-establishment: Only-a (A) A person who has been 19
- 20 granted an operator's license under [section 11] and a
- 21 license under 16-4-401(2) to sell alcoholic beverages for

22 consumption on the premises OR-WHO-OPERATES-AN-ESTABLISHMENT

- 23 POR-THE-PRINCIPAL-PURPOSE-OF-GAMING-AND-HAS-BEEN-GRANTED-AN
- 24 OPERATOR'S--biCENSE--UNBER--{SECTION--11} may be granted a
- 25 permit for the placement of video gambling machines in his

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1	premises.
2	(B) A PERSON WHO HAS BEEN GRANTED AN OPERATOR'S
3	LICENSE UNDER [SECTION 11] AND IS NOT ENTITLED TO A PERMIT
4	UNDER SUBSECTION (1)(A) MAY BE GRANTED A PERMIT FOR THE
5	PLACEMENT OF UP TO TWO VIDEO KENO OR BINGO GAMBLING MACHINES
6	IN HIS PREMISES IF THE PREMISES HAVE BEEN LICENSED FOR THE
7	SALE OF FOOD, CIGARETTES, OR ANY OTHER CONSUMABLE PRODUCT
8	OTHER THAN LIQUOR OR BEER. IF ONLY ONE MACHINE IS ALLOWED
9	UNDER SUBSECTION (1)(C), ONE MORE MAY BE ALLOWED UNDER THIS
10	SUBSECTION (B).
11	(C) IF VIDEO KENO OR BINGO GAMBLING MACHINES WERE
12	LEGALLY OPERATED ON A PREMISES ON JANUARY 15, 1989, AND THE
13	PREMISES WERE NOT ON THAT DATE LICENSED UNDER 16-4-401(2) OR
14	OPERATED FOR THE PRINCIPAL PURPOSE OF GAMING AND THERE IS AN
15	OPERATOR'S LICENSE FOR THE PREMISES UNDER [SECTION 11], A
16	PERMIT FOR THE SAME NUMBER OF VIDEO KENO OR BINGO GAMBLING
.7	MACHINES AS WERE OPERATED ON THE PREMISES ON THAT DATE MAY
8	BE GRANTED TO THE PERSON WHO HELD THE PERMIT FOR SUCH
19	MACHINES ON THOSE PREMISES ON THAT DATE; TO AN ANCESTOR,
20	DESCENDANT, SIBLING, OR SPOUSE OF THAT PERSON; OR TO A
21	PERSON WHO PURCHASES OR LEASES THE BUSINESS THAT IS ON THE
22	PREMISES. IF THE BUSINESS IS MOVED TO ANOTHER PREMISES, THE
23	PERMITEE REMAINS ELIGIBLE FOR THE SAME NUMBER OF PERMITS.
24	(D) A PERSON WHO LEGALLY OPERATED AN ESTABLISHMENT ON
25	JANUARY-1 JANUARY 15, 1989, FOR THE PRINCIPAL PURPOSE OF

1	GAMING AND HAS BEEN GRANTED AN OPERATOR'S LICENSE UNDER
2	[SECTION 11] MAY BE GRANTED A PERMIT FOR THE PLACEMENT OF
3	BINGO AND KENO MACHINES IN HIS PREMISES.
4	<pre>tb;Bachapplicantforalicenseshallonthe</pre>
5	application-form-disclose-tothedepartmentanyprevious
б	experienceorinvolvementasanowneroroperatorof
7	gambling-devices-and-establishmentsPrevious-experienceor
8	involvement-includes:
9	(i)controlling-ofgamblingdevicesas-an-owner-or
10	operator;
11	(ii)-employment-with-the-ow.:er-or-operator-ofgambling
12	devices;
13	(iii)-employmentinestablishmentswhere-gambling-is
14	offered-to-the-public;-and
15	<pre>fivt-conviction-of-violation-of-state-or-local-gambling</pre>
16	laws-in-any-jurisdiction.
17	(2) An applicant for a permit shall disclose on the
18	application form to the department any information required
19	by the department consistent with the provisions of [section
20	<u>10].</u>
21	+2+(3) A licensee may not have on the premises or make
22	available for play on the premises ofhislicensed
23	establishment more than five 20 10KENO-ANDBINGO 20
24	machines of any combination that-are-legal-under thispart
25	AND NO MORE THAN 10 MAY BE DRAW POKER MACHINES. In-the

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1	jurisdiction-of-alocalgovernmentwherevideogambling
2	machines-areplayedy-the-local-government-may-by-ordinance
3	or-resolution-limit-the-number-of-wideo-gambling-machines-to
4	<u>no-less-than-five-per-operator-premises</u> <u>in-PHB-JURISDICTION</u>
5	OF-A-LOCAL-GOVERNMENTWHEREVIDEOGAMBLINGMACHINESARE
6	<u>PLAYED7THE-LOCAL-GOVERNMENT-MAY-BY-ORDINANCE-OR-RESOLUTION</u>
7	LINIT-THE-NUMBER-OF-VIDEO-GAMBLING-MACHINES-TO-NO-LESSTHAN
8	FIVEPER-OPERATOR-PREMISES-AND-NO-MORE-THAN-ALLOWED-BY-THIS
9	SBCTIONT
10	{3}A -person-denied-a-state-license-has-the-right-to-a
11	hearing-before-the-departmentThe-hearing-must-be-conducted
12	inaccordancewiththeprovisionsoftheMontana
13	Administrative-Procedure-Act-"
14	Section 47. Section 23-5-612, MCA, is amended to read:
15	*23-5-612. Statelicense Machine permits fee
16	used-keno-machines. (1) (a) The department, upon payment of
17	the fee provided in subsection (1)(b) (2) and in conformance
18	with rules adopted under 23-5-605 this part, shall issue to
19	the licensee operator a license permit for each AN APPROVED
20	video draw-poker-or-keno gambling machine.
21	${b}(2)$ The department shall charge an annual $\pm e$
22	permit fee of \$100 for each video drawpokermachine
23	andStaaforeachkeno gambling machine PERMIT. The

24 department shall retain \$100 of the total license permit fee
25 collected for purposes of administering this part₇--except

23-5-615. The remaining \$100 must be returned on a quarterly 1 basis to the local government jurisdiction in which the 2 gambling machine is located. 3 (3) The license permit expires on June 30 of each 4 5 year, and the fee may not be prorated. (2)--A---used---keno--machine--may--be--licensed--under 6 subsection-(1)-without-meeting-the-requirements-of--23-5-609 7 if---the--applicant--for--licensure--can--ystablish--to--the 8 satisfiction--of--the--department--thaty--on--the--date---of 9 application---he--owns-or-possesses-a-machine that was-coned 10 or-operated-in-the-state-prior-to-June-307-1987--A--license 11 issued--under--this--subsection--expires-for-all-purposes-no 12 13 later-than-June-307-1989-(4) A USED KENO MACHINE MAY BE LICENSED UNDER 14 SUBSECTION (1) WITHOUT MEETING THE REQUIREMENTS OF 23-5-609 15 IF THE APPLICANT FOR LICENSURE CAN ESTABLISH TO THE 16 SATISFACTION OF THE DEPARTMENT THAT, ON THE DATE OF 17 APPLICATION, HE OWNS OR POSSESSES A MACHINE THAT WAS OWNED 18 OR OPERATED IN THE STATE PRIOR TO JUNE 30, 1987. A LICENSE 19 ISSUED UNDER THIS SUBSECTION EXPIRES FOR ALL PURPOSES NO 20 LATER THAN JUNE 30, 1989." 21 Section 48. Section 23-5-631, MCA, is amended to read: 22 *23-5-631. Examination and approval of new video draw 23 poker gambling machines and associated equipment -- fee. (1) 24

25 The department shall examine and may approve a new video

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1 draw---poker---machines gambling machine and associated
2 equipment which is are manufactured, sold, or distributed
3 for use in this the state before the video draw-poker
4 gambling machine or associated equipment is sold, played, or
5 used.

6 (2) A video draw-poker gambling machine or associated 7 equipment may not be examined or approved by the department 8 until the video gambling machine manufacturer-distributor of 9 the-machine-or-associated-equipment is licensed as required 10 in 23-5-625.

(3) All video gambling machines approved by the
 department of commerce prior to [the effective date of this
 act] must be considered approved under this part.

14 (3)(4) The department shall require the 15 manufacturer-distributor seeking the examination and 16 approval of a new video draw--poker gambling machine or 17 associated equipment to pay the anticipated actual costs of 18 the examination in advance and, after the completion of the 19 examination, shall refund overpayments or charge and collect 20 amounts sufficient to reimburse the department for 21 underpayments of actual costs.

(5) The department may inspect and test and approve,
 disapprove, or place a condition upon a video gambling
 machine prior to its distribution and placement for play by
 the public."

	un annual Conting 40 million antilian
1	NEW SECTION. Section 49. Video gambling machine
2	<pre>specifications rules. The department shall adopt rules</pre>
3	describing the video gambling machines authorized by this
4	part and stating the specifications for video gambling
5	machines authorized by this part. THE SPECIFICATIONS IN THE
6	RULES MUST SUBSTANTIALLY FOLLOW THE SPECIFICATIONS CONTAINED
7	IN 23-5-606 AND 23-5-609 AS THOSE SECTIONS READ ON SEPTEMBER
8	30, 1989. THE DEPARTMENT SHALL ADOPT RULES ALLOWING VIDEO
9	GAMBLING MACHINES TO BE IMPORTED INTO THIS STATE AND USED
10	FOR THE PURPOSES OF TRADE SHOWS, EXHIBITIONS, AND SIMILAR
11	ACTIVITIES.
12	Section 50. Section 23-5-616, MCA, is amended to read:
13	"23-5-616. Removal of machine from public access. If a
14	machine fails to meet the specifications and requirements of
15	23-5-6067-23-5-6077-or-23-5-600 this part or any rule of the
16	department WHICH SPECIFICATION OR REQUIREMENT EXISTED AT THE
17	TIME THE MACHINE WAS APPROVED at any time after its initial
18	licensure permit has been issued, the licensee operator
19	shall immediately remove the machine from public access
20	until it meets all requirements."
21	Section 51. Section 23-5-625, MCA, is amended to read:
22	"23-5-625. Manufacturer-distributor-ofvideodraw
23	pokermachines Video gambling machine
24	manufacturer-distributor license fees. (1) It is

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unlawful for any person to assemble, produce, manufacture,

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1 selly-or-distribute OR supply--or--repair any video draw 2 poker gambling machine or associated equipment for use or 3 play in this the state without having first been issued a 4 video gambling machine manufacturer-distributor's license by 5 the department.

(2) The department shall charge an annual license fee 6 7 of \$1,000 for the issuance or renewal of a video gambling machine manufacturer-distributor's license. 8

9 (3) In addition to other license fees, the department 10 may charge the applicant a one-time video gambling machine manufacturer-distributor's license application processing 11 12 fee. The processing fee may not exceed the department's 13 actual costs for processing an application.

14 (4) A11 video gambling machine manufacturer-distributor's licenses expire on June 30 of 15 each year, and the license fee may not be prorated. 16

(5) The department shall retain the license and 17 18 processing fees collected for purposes of administering this 19 part, except-23-5-615 unless otherwise provided."

20 Section 52. Section 23-5-610, MCA, is amended to read: 21 "23-5-610. Video draw-poker-and-keno gambling machine net income tax -- records -- distribution -- guarterly 22 23 statement and payment. (1) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER THIS PART shall pay to the department 24 a video draw-poker-and-keno gambling machine tax of 15% of 25

net machine income from each video draw-poker-and-keno 1 2 gambling machine licensed under this part.

3 (2) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER 4 THIS PART shall keep a record of net machine income in such 5 form as the department may require. The records must at all 6 times during the business hours of the licensee be subject 7 to inspection by the department -- its-agents -- or -- employees. 8 (3) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER THIS PART shall, within 15 days after the end of each 9 10 guarter, complete and deliver to the department a statement showing the total net machine income from each video draw 11 poker--and--keno gambling machine licensed to him, together 12 with the total amount due the state as video draw-poker--and 13 14 keno gambling machine net income tax for the preceding quarter. The statement must contain such other relevant 15 information as the department may require. 16

17 (4) (a) The department must--deposit shall forward one-third of the tax collected under subsection (3) in to 18 19 the general fund.

20 (b) The department must shall forward the remaining two-thirds of the tax collected under subsection (3) to the 21 treasurer of the incorporated county or the clerk, finance 22 officer, or treasurer of the city or town in which the 23 licensed machine is located, for deposit to the county or 24 municipal treasury. Counties are not entitled to proceeds 25

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from taxes on income from video draw-poker-and-keno gambling machines located in incorporated cities and towns. The two-thirds local government portion of tax collected under subsection (3) is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury."

Section 53. Section 23-5-608, MCA, is amended to read:
"23-5-608. Limitation on amount of money played and
value of prizes -- payment of credits in cash. (1) A video
draw-poker-or-keno gambling machine may not allow more than
\$2 to be played on a game or award free games or credits in
excess of the value-of-\$100-per-hand following amounts:

 13
 (a) \$100 a-hand-or-\$800 \$800 a game for a video draw

 14
 poker machine; and

15 (b) \$800 a game for a video keno or bingo machine.

16 (2) Each <u>A</u> licensee shall pay in cash all credits owed
17 to a player as shown on a valid ticket voucher provided-in
18 23-5-6066(4)(k)."

19 Section 54. Section 23-5-607, MCA, is amended to read: 20 "23-5-607. Expected payback -- verification. The 21 department shall prescribe the expected payback value of one 22 credit played awarded to be at least 80% of the value of a 23 one credit played. Each video draw-poker-or--keno gambling 24 machine must have an electronic accounting device that the 25 department may use to verify the winning percentage. The SB 0431/05

1	departmentmaymot-publish-or-otherwise-disseminate-income
2	figuresandotherstatisticsobtainedinthepayback
3	verificationprocessorcontained-in-payback-verification
4	reports-in-amannerthatallowsorhelpsapersonto
5	identifyaparticularmachineortomatch.a-particular
6	machine-with-a-particular-income-or-statistic;"
7	NEW SECTION. Section 55. Video gampling machines
8	hours of playpenatty. (1) A video gambling machine may
9	not be played between the hours of 2 a.m. and 8 a.m. each
10	day. Howeverinthejurisdictionof-a-local-government
11	where-thevideogamblingmachineisplayed;thelocal
12	government-may-adopt-an-ordinance-defining-the-hours-of-play
13	wi:hin-that-jurisdiction-
14	<pre>(2)Aviolationofthissectionisa-misdemeanor</pre>
15	punishable-under-fsection-23]: HOWEVER, IN THE JURISDICTION
16	OF A LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL
17	GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2
18	<u>A.M. AND</u> 8 A.M.
19	Section 56. Section 23-5-613, MCA, is amended to read:
20	"23-5-613. Investigationsandviolations Violations.
21	(1)Thedepartmentordulyauthorizeddepartment
22	representatives-shall-make-necessary investigations,-suspend
23	or-revoke-state-licenses-for-violations of this part, except
24	23-5-615;andhold-hearings on-such matters;-A-license-may
25	be-suspended-prior-to-a-hearing-upon a finding-of-dangerto

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public--health--and-welfare-but-may-not-be-revoked-until-the 1 hearing-is-completed-2 +2+--A Unless otherwise provided in this part, a 3 violation of this part7--except--23-5-6157 or--a--rule 4 promutgated under-23-5-605 by-the-department is a criminal 5 6 offensey--and--a--fine--not--to-exceed-\$107000-for-the-first violation-and-\$157000-for-a--subsequent--violation--must--be 7. imposed misdemeanor punishable under [section 23]. 8 9 +3+--ff--a--video--draw--poker--machine--is-operated-in violation-of-this-party-except-23-5-615y-it--may--be--seized 10 under-23-5-121-and-the-provisions-of-23-5-122-apply-11 12 t4)--Employees--of--the--department--or-duly-authorized 13 department-representatives-designated-as-enforcement--agents may--investigate-the-background-of-license-applicants-to-the 14 extent-judged-necessary-by-the-department,-but-no-person-may 15 be-investigated-prior-to-his-submission--of--an--application 16 for-a-licenser 17 (5)--- fat-Pindings-of-suspected-illegal-activity-must-be 18 reported-to-the-appropriate-law-enforcement-agency-19 tb)---The--clerk-of-the-court-shall;-upon-final-judgment 20 of-conviction-of-a-licensee, report-to--the--department--the 21 name-of-the-licensee-convicted-of-violating-a-local-gambling 22 23 ordinance; te)--On--receipt--of--such--report;--the-department-may 24 commence-proceedings-to-revoke--or--suspend--the--licensee's 25

.

video-draw-poker-licenset

1

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 NEW SECTION. Section 57. Tampering with 0.0 manipulating video gambling machine -- penalty. (1) foris-a 10 11 felony--to A PERSON COMMITS THE OFFENSE OF TAMPERING WITH A 12 VIDEO GAMBLING MACHINE IF HE PURPOSELY OR KNOWINGLY 13 manipulate MANIPULATES or attempt ATTEMPTS or conspire CONSPIRES to manipulate the outcome or payoff of a video 14 15 gambling machine by physical tampering or other interference 16 with the proper functioning of the machine.

17 (2) A violation of this section is a felony and must18 be punished in accordance with (section 24).

19 Section 58. Section 23-5-503, MCA, is amended to read:
20 "23-5-503. Rules. (1) The card used for recording the
21 pool and upon which the squares or spaces appear shall
22 clearly state indicate in advance of the sale of any chances
23 the number of chances to be sold in that specific pool, the
24 name of the event, the consideration to be paid for each
25 chance, and the total amount to be paid to the winners.

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1 (2) No A chance to participate in a sports pool may 2 not be sold other than upon the premises in which the sports 3 pool is conducted. No An individual chance to participate in a sports pool shall may not be sold for a consideration in 4 excess of $\frac{1}{2}$ $\frac{10}{2}$ $\frac{1}{2}$ $\frac{1}{2}$, and the total amount to be paid to 5 6 the winners of any individual sports pool shall may not 7 exceed the value of \$100 \$500. The winner of any sports pool 8 shall receive a 100% payout of the value of the sports 9 pool."

10 Section 59. Section 23-5-509, MCA, is amended to read: 11 *23-5-509. Penalty. Every A person who willfully 12 purposely or knowingly violates or who procures, aids, or 13 abets in the -- willful a violation of this part shall-be 14 deemed is guilty of a misdemeanor end-upon-conviction--shall 15 be---punished---by--a--fine--of--mot--more--than--\$17000--or 16 imprisonment-in-the-county-jail-for-not-more-than-3--months, 17 or-both punishable pursuant to [section 23]."

18 Section 60. Section 23-5-1101, MCA, is amended to 19 read:

20 "23-5-1101. Definition. As used in this part, 21 "Calcutta pool" means a form of auction pool in-which 22 persons-bid-or-wager-money;-with-winnings-awarded-based-on 23 the--outcome-of--an-event;-except-that conducted by an 24 organization gualified for exemption under 26 U.S.C. 25 501(c)(3) or (c)(4) and authorized by the department. The

1	Calcutta pool must be an auction pool in which:
2	(1) a person's wager is equal to his bid;
3	(2) the organization conducting the pool has no direct
4	interest in the pool;
5	(3) the rules of the pool are publicly posted;
6	(4) no more than one wager for each competitor is
7	allowed;
8	(5) at least 50% of the total pool is paid out in
9	prizes;
10	(6) persons may not bid or wager money on any
11	elementary school or high school sports event; and
12	(7) the underlying event has more than two entrants."
13	Section 61. Section 23-5-1105, MCA, is amended to
14	read:
15	*23-5-1105. Penalty. Ar <u>A</u> person who violates a
16	provision of this part is guilty of a misdemeanor andupon
17	conviction-shall-be-fined-not-more-than-\$1;000-or-imprisoned
18	inthecountyjailfor-a-term-mot-to-exceed-l-monthsor
19	both punishable pursuant to [section 23]."
20	Section-63Section-17-7-5027-MEA; -is-amended-to-read+
21	#17-7-502Statutory-appropriationsdefinition
22	requisitesforvalidity(1)-A-statutory-appropriation-is
23	an-appropriationmadebypermanent: lawthatauthorizes
24	spendingbya-state-agency-without-the need-for-a-biennial
25	legislative-appropriation-or-budget-amendment;

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1 +2)--Except--as--provided--in--subsection--+4);--to--be effective--a--statutory-appropriation-must-comply-with-both 2 of-the-following-provisions: 3 {a}--The-law-containing-the-statutory-authority-must-be 4 5 listed-in-subsection-(3)-+b}--The-law-or-portion-of-the-law-making--a--statutory 6 7 appropriation--must--specifically--state--that--a--statutory appropriation-is-made-as-provided-in-this-section-8 9 (3)--The-following-laws-are-the--only--laws--containing statutory---appropriations:---2-9-202;--2-17-105;--2-18-812; 10 10-3-203;----10-3-312;----10-3-314;----10-4-301;-----13-37-304; 11 12 15-25-123----15-31-702----15-36-112---15-65-121---15-70-101-16-1-4047-16-1-4107-16-1-4117-17-3-2127-17-5-4047--17-5-4247 13 17-5-804;----19-8-504;---19-9-702;---19-9-1007;---19-10-205; 14 19-10-305;--19-10-506;--19-11-512;---19-11-513;---19-11-606; 15 19-12-301;----19-13-604;---20-4-109;---20-6-406;---20-8-111; 16 23-5-610;-{section-29};-{section-39};-23-5-1027;--33-31-212; 17 33-31-401;---37-51-501;---39-71-2504;--53-6-150;--53-24-206; 18 67-3-205+---75-1-1101+---75-7-305+---76-12-123+---80-2-103+ 19 88-2-228:-82-11-136:-98-3-381:-98-3-382:-98-3-412:-98-4-215:

 20
 80-2-228;-82-11-136;-90-3-301;-90-3-302;-90-3-412;-90-4-215;

 21
 90-9-306;-90-15-103;-section-13;-House-Bill-No:-861;-baws-of

 22
 1905;-and-section-1;-Chapter-454;-baws-of-1907;

23 (4)--There-is--a--statutory--appropriation--to-pay-the
 24 principal;-interest;-premiums;-and-costs-of-issuing;-paying;
 25 and-securing-all-bonds;-notes;-or-other-obligations;-as-due;

1	that-have-been-authorized-and-issued-pursuant-to-the-laws-of
2	MontanaAgenciesthathaveenteredintoagreements
3	authorizedbythelawsofMontanatopaythestate
4	treasurer;-for-deposit-in-accordance-with17-2-101through
5	17-2-1077asdeterminedby-the-state-treasarer7-an-amount
6	sufficient-to-pay-the-principal-and-interest-as-dueonthe
7	bondsormoteahave-statutory-appropriation-authority-for
8	such-payments{In-subsection-{3}:-pursuant-to-see15;-Ch-
9	6877-5-19877-the-inclusion-of-15-65-121-terminates-June-307
10	1989;-pursuant-to-sect-10;-Cht-664;-5t-1987;; :=-inclusion
11	of-39-71-2504-terminates-June-307-19917-and-pursuant-no-sect
12	67Ch4547b19077-the-inclusion-of-sec17-En4547-b-
13	1987;-terminates-July-1;-1988;;"
14	SECTION 62. SECTION 17-7-502, MCA, IS AMENDED TO READ:
15	"17-7-502. Statutory appropriations definition
16	requisites for validity. (1) A statutory appropriation is an
17	appropriation made by permanent law that authorizes spending
18	by a state agency without the need for a piennial
19	legislative appropriation or budget amendment.
20	(2) Except as provided in subsection (4), to be
21	effective, a statutory appropriation must comply with both
22	of the following provisions:
23	(a) The law containing the statutory authority must be

24 listed in subsection (3).

25 (b) The law or portion of the law making a statutory

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appropriation must specifically state that a statutory
 appropriation is made as provided in this section.

3 (3) The following laws are the only laws containing 4 statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203: 10-3-312; 10-3-314; 13-37-304; 5 10-4-301: 6 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 7 16-1-404; 16-1-410; 16-1-411; 17-3 212; 17-5-404; 17-5-424; 8 17-5-804: 19-8-504: 19-9-702: 19-9-1007: 19-10-205: 9 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301: 19-13-604; 20-4-109; 20-6-406; 10 20-8-111; 23-5-610; [section 29]; [section 38]; 23-5-1027; 33-31-212; 11 33-31-401; 37-51-501; 39-71-2504; 53+6-150; 53-24-206; 12 13 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 14 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 15 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 16 1985; and section 1, Chapter 454, Laws of 1987.

17 (4) There is a statutory appropriation to pay the 18 principal, interest, premiums, and costs of issuing, paying, 19 and securing all bonds, notes, or other obligations, as due, 20 that have been authorized and issued pursuant to the laws of 21 Montana. Agencies that have entered into agreements 22 authorized by the laws of Montana to pay the state 23 treasurer, for deposit in accordance with 17-2-101 through 24 17-2-107, as determined by the state treasurer, an amount 25 sufficient to pay the principal and interest as due on the

1 bonds or notes have statutory appropriation authority for 2 such payments. (In subsection (3): pursuant to sec. 15, Ch. 3 607, L. 1987, the inclusion of 15-65-121 terminates June 30. 4 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion 5 of 39-71-2504 terminates June 30, 1991; and pursuant to sec. 6 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L. 7 1987, terminates July 1, 1988.)" NEW SECTION. SECTION 63. EXEMPTION 8 FROM SUNRISE 9 PROVISIONS. THE PROVISIONS OF TITLE 2, CHAPTER 8, PART 2, 10 AND 5-4-207 DO NOT APPLY TO [THIS ACT]. 11 NEW SECTION. SECTION 64. GAMING ADVISORY COUNCIL --ALLOCATION -- COMPOSITION -- COMPENSATION -- ANNUAL REPORT. 12 13 (1) THERE IS A GAMING ADVISORY COUNCIL. 14 (2) THE GAMING ADVISORY COUNCIL IS ALLOCATED TO THE 15 DEPARTMENT FOR ADMINISTRATIVE PURPOSES ONLY AS PRESCRIBED IN 16 2-15-121. 17 (3) THE GAMING ADVISORY COUNCIL CONSISTS OF NINE MEMBERS. ONE MEMBER MUST BE FROM THE SENATE, AND ONCE MEMBER 18 MUST BE FROM THE HOUSE OF REPRESENTATIVES. THE SENATE 19 COMMITTEE ON COMMITTEES AND THE SPEAKER OF THE HOUSE OF 20 21 REPRESENTATIVES SHALL APPOINT THE LEGISLATIVE MEMBERS OF THE COUNCIL. THE SEVEN REMAINING MEMBERS MUST BE APPOINTED BY 22 23 THE DEPARTMENT, WITH TWO ONE REPRESENTING THE PUBLIC AT 24 LARGE, TWO REPRESENTING LOCAL GOVERNMENTS, ONE BEING A 25 NATIVE AMERICAN, AND THREE REPRESENTING THE GAMING INDUSTRY.

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1	(4) EACH GAMING ADVISORY COUNCIL MEMBER IS APPOINTED
2	TO A 2-YEAR 3-YEAR TERM OF OFFICE, EXCEPT THAT THREE OF THE
3	FIRST-APPOINTED ORIGINAL MEMBERS SHALL SERVE A 1-YEAR TERM,
4	THREE (INCLUDING BOTH LEGISLATIVE MEMBERS) SHALL SERVE A
5	2-YEAR TERM, AND THREE SHALL SERVE A 3-YEAR TERM. A MEMBER
6	OF THE COUNCIL MAY BE REMOVED FOR GOOD CAUSE BY THE
7	APPOINTING BODY PROVIDED FOR IN SUBSECTION (3).
8	(5) THE GAMING ADVISORY COUNCIL SHALL APPOINT A
9	CHAIRMAN FROM ITS MEMBERS.
10	(6) LEGISLATIVE MEMBERS OF THE GAMING ADVISORY COUNCIL
11	ARE ENTITLED TO COMPENSATION AND EXPENSES, AS PROVIDED IN
12	5-2-302, WHILE THE COUNCIL IS MEETING. THE REMAINING MEMBERS
13	ARE ENTITLED TO TRAVEL, MEALS, AND LODGING EXPENSES AS
14	PROVIDED FOR IN 2-18-501 THROUGH 2-18-503. EXPENSES OF THE
15	COUNCIL MUST BE PAID FROM LICENSING FEES RECEIVED BY THE
16	DEPARTMENT.
17	(7) THE GAMING ADVISORY COUNCIL SHALL, WITHIN ITS
18	AUTHORIZED BUDGET, HOLD MEETINGS AND INCUR EXPENSES AS IT
19	CONSIDERS NECESSARY TO STUDY ALL ASPECTS OF GAMBLING IN THE
20	STATE.
21	(8) (A) THE GAMING ADVISORY COUNCIL SHALL SUBMIT AN
22	ANNUAL REPORT TO THE DEPARTMENT, AT A TIME DESIGNATED BY THE
23	DEPARTMENT, WITH RECOMMENDATIONS FOR AMENDMENTS TO THE
24	GAMBLING STATUTES, THE NEED FOR ADDITIONAL OR MODIFIED
25	DEPARTMENT RULES, THE CLARIFICATION OF EXISTING RULES, AND

.

1	OTHER RECOMMENDATIONS ON THE OPERATION OF THE DEPARTMENT OR
2	ANY OTHER GAMBLING-RELATED MATTER.
3	(B) THE ANNUAL REPORT REQUIRED UNDER SUBSECTION (8)(A)
4	MUST BE AFFIXED TO THE ANNUAL DEPARTMENT REPORT ON GAMBLING
5	IN THE STATE. THE DEPARTMENT AND COUNCIL SHALL SUBMIT THE
6	TWO MOST RECENT DEPARTMENT AND COUNCIL REPORTS TO EACH OF
7	THE NEXT TWO REGULAR SESSIONS OF THE LEGISLATURE.
8	(C) THE COUNCIL MAY SUBMIT INTERIM REPORTS TO THE
9	DEPARTMENT AS THE COUNCIL CONSIDERS NECESSARY.
10	(D) THE COUNCIL SHALL MEET WITH THE DEPARTMENT UPON
11	REQUEST OF THE DEPARTMENT.
12	(E) THE DEPARTMENT SHALL MEET WITH THE COUNCIL UPON
13	REQUEST OF THE COUNCIL.
14	(9) THE DEPARTMENT SHALL GIVE EACH COUNCIL MEMBER
15	NOTICE AND A COPY OF EACH PROPOSED CHANGE IN ADMINISTRATIVE
16	RULES RELATING TO GAMBLING. THE NOTICE AND COPY MUST BE
17	GIVEN AT THE TIME A NOTICE OF PROPOSED RULES CHANGES IS
18	FILED WITH THE SECRETARY OF STATE. THE COUNCIL SHALL REVIEW
19	THE PROPOSAL, MAY COMMENT ON IT, AND MAY ATTEND ANY HEARING
20	ON THE PROPOSAL. THE DEPARTMENT SHALL CONSIDER ANY COMMENT
21	BY ANY COUNCIL MEMBER OR BY THE COUNCIL AS A WHOLE PRIOR TO
22	ADOPTING THE PROPOSED CHANGE.
23	NEW SECTION. SECTION 65. CONSTRUCTION. IN VIEW OF
24	ARTICLE III, SECTION 9, OF THE MONTANA CONSTITUTION, [THIS
25	ACT) MUST BE STRICTLY CONSTRUED BY THE DEPARTMENT AND THE

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1 COURTS TO ALLOW ONLY THOSE TYPES OF GAMBLING AND GAMBLING 2 ACTIVITY THAT ARE SPECIFICALLY AND CLEARLY ALLOWED BY [THIS 3 ACT].

4 <u>NEW SECTION.</u> Section 66. Reorganization procedure. 5 The provisions of sections 2-15-131 through 2-15-137 govern 6 the transfer of the various functions contained in [this 7 act] from the department of commerce <u>AND THE DEPARTMENT OF</u> 8 REVENUE to the department of justice.

NEW SECTION. Section 67. Implementation. (1) The
governor shall by executive order implement the provisions
of [this act].

(2) The governor may by executive order assign to the
department of justice in a manner consistent with [this act]
functions allocated to the department of commerce <u>AND THE</u>
<u>DEPARTMENT OF REVENUE</u> by the 51st legislature relating to
the implementation of Title 23, chapter 5, parts 1 through
6, that are not transferred by [this act].

18 NEW SECTION. Section 68. Repeater. Sections 23-5-105 19 through 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124 20 through 23-5-127, 23-5-132 through 23-5-134, 23-5-141 21 through 23-5-144, 23-5-201 through 23-5-211, 23-5-301 through 23-5-303, 23-5-314 through 23-5-316, 22 23-5-322, 23-5-323, 23-5-332, 23-5-401 through 23-5-403, 23-5-411, 23 24 23-5-415 through 23-5-418, 23-5-421 through 23-5-423, 25 23-5-504 through 23-5-508, 23-5-510, 23-5-511, 23-5-601,

23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618,
 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103,
 23-5-1104, MCA, are repealed.

<u>NEW SECTION.</u> Section 69. Extension of authority. Any
existing authority to make rules on the subject of the
provisions of [this act] is extended to the provisions of
[this act].

8 <u>NEW SECTION.</u> Section 70. Codification instruction. 9 (1) [Sections 1, 2, 4 through 8, 10 through 12, 16, 18 10 through 20, and 23 through 25] are intended to be codified 11 as an integral part of Title 23, chapter 5, part 1, and the 12 provisions of Title 23, chapter 5, part 1, apply to 13 [sections 1, 2, 4 through 8, 10 through 12, 16, 18 through 14 20, and 23 through 25].

15 (2) [Sections 27 through 29 and 32] are intended to be
16 codified as an integral part of Title 23, chapter 5, part 3,
17 and the provisions of Title 23, chapter 5, part 3, apply to
18 [sections 27 through 29 and 32].

(3) [Sections 35 through 39 <u>38</u> and 43 <u>42</u>] are intended
to be codified as an integral part of Title 23, chapter 5,
part 4, and the provisions of Title 23, chapter 5, part 4,
apply to [sections 35 through 39 <u>38</u> and 43 <u>42</u>].

(4) [Sections 50 49, 56 55, and 50 57] are intended to
be codified as an integral part of Title 23, chapter 5, part
6, and the provisions of Title 23, chapter 5, part 6, apply

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1	to [sections 50 49, 56 55, and 50 57].
2	(5) The code commissioner shall recodify the
3	provisions of Title 23, chapter 5, part 11, as an integral
4	part of Title 23, chapter 5, part 2.
5	(6) [SECTION 64] IS INTENDED TO BE CODIFIED AS AN
6	INTEGRAL PART OF TITLE 2, CHAPTER 15, PART 20, AND THE
7	PROVISIONS OF TITLE 2, CHAPTER 15, APPLY TO [SECTION 64].
8	NEW SECTION. SECTION 71. COORDINATION INSTRUCTION.
9	(1) THE REFERENCE COPY OF HOUSE BILL NO. 576 OF THE 51ST
10	LEGISLATURE IS AMENDED TO INSERT, ON PAGE 2, LINE 9, AFTER
11	"23-5-609(4)(L)", THE PHRASE ", AS THAT SECTION READ ON
12	SEPTEMBER 30, 1989".
13	(2) THE REFERENCE COPY OF HOUSE BILL NO. 251 OF THE
14	51ST LEGISLATURE IS AMENDED TO CHANGE "LICENSE" TO "PERMIT"
15	ON PAGE 2, LINES 2 AND 13.
16	(3) THE REFERENCE COPY OF HOUSE BILL NO. 448 OF THE
17	51ST LEGISLATURE IS AMENDED TO DELETE THE AMENDMENTS MADE TO
18	23-5-104(1). SUBSECTION (1) OF 23-5-104 AND THE FIRST
19	SENTENCE OF 23-5-104(2) ARE DELETED, AS PROVIDED IN (SECTION
20	22], AND THE AMENDMENTS TO THE REMAINDER OF 23-5-104 BY
21	[SECTION 22] AND HOUSE BILL NO. 448 TAKE EFFECT.
22	NEW SECTION. Section 72. Severability. If a part of
23	<pre>{this act} is invalid, all valid parts that are severable</pre>
24	from the invalid part remain in effect. If a part of {this
25	act] is invalid in one or more of its applications, the part

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- 1 remains in effect in all valid applications that are
- 2 severable from the invalid applications.

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Free Conference Committee Report on SB 431 Report No. 1, April 21, 1989 page 1 of 4

Mr President and Mr. Speaker:

We, your Free Conference Committee on SB 431 met and considered;

The House amendments to SB 431 (third reading copy -- blue) in their entirety.

We recommend that SB 431 (reference copy -- salmon) be amended as follows:

1. Title, line 11. Following: "<u>FOR</u>" Insert: "AN APPROPRIATION AND A"

2. Title, line 18. Strike: "AND"

3. Title, page 2, line 2. Following: "MCA" Insert: "; AND PROVIDING EFFECTIVE DATES"

4. Page 4, line 1. Following: "granted." Insert: "A holder does not acquire a vested right in the license or permit issued or other department approval granted."

5. Page 5, lines 16, 21, and 25. Page 6, lines 4 and 9. Strike: "<u>OR SYMBOLS</u>"

6. Page 5, line 22. Strike: "<u>OR SYMBOL</u>"

7. Page 12, line 9. Following: "manufacture" Insert: ", lease,"

8. Page 15, line 12. Following: "<u>THE</u>" Insert: "gambling activity," Following: "<u>ACT</u>" Insert: "," FREE CONFERENCE COMMITTEE, SB 431 April 20, 1989 page 2 of 4

9. Page 17, line 7.
Following: "deposited" Insert: "one-half"
10. Page 17, line 14.
Following: "<u>FUND</u>" Insert: "and one-half in the general fund of the county in which the violation occurred"
11. Page 18, line 14 through page 19, line 14.
Strike: subsections (3) and (4) in their entirety
12. Page 24, lines 17 through 19.
Strike: subsection (3) in its entirety
13. Page 31, lines 24 and 25.

Strike: "(INCLUDING JACKS OR BETTER)"

14. Page 33, line 16. Page 50, line 21. Strike: "<u>under 16-4-401 (2)</u>"

15. Page 33, line 20. Following: "tables." Insert: "If one or more live card game tables were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed under 16-4-401(2) but were licensed on that date to sell food, cigarettes, or any other consumable product, an operator's license and an annual permit for the placement of live card game tables may be granted to the person who legally operated the premises on January 15, 1989."

16. Page 49, line 21. Following: "<u>operator</u>." Insert: "The department shall adopt rules allowing a video gambling machine that needs repair to be temporarily replaced while it is being repaired with a video gambling machine that is approved under the permit provisions of this part. A fee may not be charged for the replacement machine."

17. Page 51, lines 2 through 10. Strike: subsection (B) in its entirety Renumber: subsequent subsections

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FREE CONFERENCE COMMITTEE, SB 431 April 20, 1989 page 3 of 4

18. Page 51. line 13. Strike: "UNDER 16-4-401 (2)" Insert: "to sell alcoholic beverages for consumption on the premises" 19. Page 51. lines 19 through 23. Strike: ": TO AN" on line 19 through "PERHITS" on line 23 20. Page 54, line 3. Following: "<u>located.</u>" Insert: "The local government portion of the fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit in the local government treasury." 21. Page 59. line 13. Strike: "\$800" Insert: "\$100" 22. Page 61, line 3. Following: "part." Insert: "a person who purposely or knowingly violates or procures, aids, or abets" 23. Page 61, line 5. Following: "department" Insert: "or an ordinance, resolution, or rule adopted under this Dart" Following, "is" Insert: "guilty of" 24. Page 63, lines 24 and 25. Strike: "gualified" on line 24 through "(4) and" on line 25 25. Page 64, lines 3 and 4. Strike: subsection (2) in its entirety Insert: "(2) the proceeds from the pool, minus administrative costs and prizes paid, are contributed to a charitable or nonprofit corporation, association, or cause." Renumber: subsequent sections 26. Page 67, line 11. Following: "23-5-610;" Insert: "23-5-612:" 27. Page 72, line 4. Following: line 3 Insert: "NEW SECTION, Section 69. Proration of certain fees. A fee imposed under 23-5-321, 23-5-421, 23-5-612, 23-5-625, or

April 20, 1989 page 4 of 4 23-5-631 between [the effective date of this section] and October 1, 1989, must be prorated to cover only the period between the date the permit or license takes effect and October 1, 1989. NEW SECTION. Section 70. Appropriation. The following appropriation is made from a state special revenue account to the department of justice for the purpose of implementing [this act] and administering chapter 5 of Title 23: Fiscal year beginning July 1, 1989 \$527.081 Fiscal year beginning July 1, 1990 \$449,081" Renumber: subsequent sections 28. Page 74. Following: line 2 Insert: "NEW SECTION. Section 75. Effective dates. 111 (Subsection (2) of section 7 and sections 63 through 67, 69, 72, 73, and this section] are effective on passage and approval. (2) [Section 70] is effective on July 1, 1989. (3) The remaining sections are effective on October 1, 1989.

And that this Conference Committee Report be adopted.

FOR THE SENATE

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FOR THE HOUSE

Sen. Gage, Chairman

Bob Brown Sen

Brown, Chairman Rep. Dave

FREE CONFERENCE COMMITTEE, SB 431

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23-5-601, 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 1 SENATE BILL NO. 431 1 23-5-618, 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103, 2 2 INTRODUCED BY GAGE, HARPER, B. BROWN, MAZUREK, 3 3 ADDY, STRIZICH, MERCER, CRIPPEN, HANNAH, 4 4 HARP, VAN VALKENBURG STATEMENT OF INTENT 5 BY REQUEST OF THE DEPARTMENT OF JUSTICE 5 6 6 7 7 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE 8 8 PUBLIC GAMBLING LAWS OF MONTANA; PROVIDING FOR LICENSURE AND 9 REGULATION OF GAMBLING ACTIVITIES BY THE DEPARTMENT OF 9 10 10 JUSTICE: PROVIDING-POR--STATUTORY--APPROPRIATION; PROVIDING 11 FOR AN APPROPRIATION AND A STATUTORY APPROPRIATION; 11 PROVIDING FOR A GAMING ADVISORY COUNCIL; AMENDING SECTIONS 12 12 13 13 17-7-502, 17-7-502, 23-5-101 THROUGH 23-5-104, 23-5-108, 14 23-5-123, 23-5-131, 23-5-135, 23-5-311 THROUGH 23-5-313, 14 15 bill. 23-5-321, 23-5-331, 23-5-412 THROUGH 23-5-414, 23-5-431, 15 16 23-5-503, 23-5-509, 23-5-602, 23-5-603, 23-5-607, 23-5-608, 16 17 17 23-5-610 THROUGH 23-5-613, 23-5-616, 23-5-625, 23-5-631, NEW SECTION. Section 1. Public 18 23-5-1101, AND 23-5-1105, MCA; AND REPEALING SECTIONS 18 19 23-5-105 THROUGH 23-5-107, 23-5-109, 23-5-121, 23-5-122, 19 20 23-5-124 THROUGH 23-5-127, 23-5-132 THROUGH 23-5-134. 20 21 23-5-141 THROUGH 23-5-144, 23-5-201 THROUGH 23-5-211, 21 22 23-5-301 THROUGH 23-5-303, 23-5-314 THROUGH 23-5-316, 22 23 23-5-322, 23-5-323, 23-5-332, 23-5-401 THROUGH 23-5-403, 23 24 23-5-411, 23-5-415 THROUGH 23-5-418, 23-5-421 THROUGH 24 23-5-423, 23-5-504 THROUGH 23-5-508, 23-5-510, 23-5-511, 25 25

Montana Legislative Council

AND 23-5-1104, MCA; AND PROVIDING EFFECTIVE DATES." This bill requires a statement of intent because [section 7] authorizes the department of justice to adopt administrative rules to implement [this act]. [This act] is intended to provide uniform statewide regulation of gambling in Montana under the supervision of the attorney general. It is the intent of the legislature that the department of justice adopt necessary rules to implement uniform statewide regulation of gambling in Montana consistent with

the purposes and policies set forth in [section 1] of this

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

policy of state concerning gambling. (1) The legislature finds that for the purpose of ensuring the proper gambling environment in this state it is necessary and desirable to adopt a public policy regarding public gambling activities in Montana. The legislature therefore declares it is necessary to:

(a) create and maintain a uniform regulatory climate that assures players, owners, tourists, citizens, and others

> SB 431 -2-**REFERENCE BILL: Includes Free** Conference Committee Report Dated 4-21-89

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1 that the gambling industry in this state is fair and is not 2 influenced by corrupt persons, organizations, or practices; 3 (b) protect legal public gambling activities from 4 unscrupulous players and vendors and detrimental influences; 5 (c) protect the public from unscrupulous proprietors 6 and operators of gambling establishments, games, and 7 devices;

8 (d) protect the state and local governments from those
9 who would conduct illegal gambling activities that deprive
10 those governments of their tax revenues;

(e) protect the health, safety, and welfare of all
 citizens of this state, including those who do not gamble,
 by regulating gambling activities; and

14 (f) promote and--fund programs necessary to provide 15 assistance to those who are adversely affected by legalized 16 gambling, including compulsive gamblers and their families. 17 (2) The legislature adopts the policy that an applicant for a license or permit or other department 18 19 approval under parts 1 through 6 of this chapter does not 20 have a right to the issuance of a license or permit or the 21 granting of the approval sought. The issuance of a license 22 or permit issued or other department approval granted 23 pursuant to the provisions of parts 1 through 6 of this 24 chapter is a revocable privilege REVOCABLE ONLY FOR GOOD 25 CAUSE. A-holder-does-not--acquire--a--vested--right--in--the

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1 license--or--permit--issued--or--other--department--approval granted: <u>A HOLDER DOES NOT ACQUIRE A VESTED RIGHT IN THE</u> 3 LICENSE OR PERMIT ISSUED OR OTHER DEPARTMENT APPROVAL 4 <u>GRANTED</u>. A license or permit issued under parts 1 through 6 5 of this chapter may not be sold, assigned, leased, or 6 transferred.

7 (3) Revenue to fund the expense of administration and 8 control of gambling as regulated by parts 1 through 6 of 9 this chapter must be derived solely from fees, taxes, and 10 penalties on gambling activities, except the gambling 11 activities of the Montana state lottery and the parimutuel 12 industry.

<u>NEW SECTION.</u> Section 2. General application. This
 chapter applies only to public gambling activities within
 the state of Montana.

16 Section 3. Section 23-5-101, MCA, is amended to read: *23-5-101. Definitions. Unless the context requires 17 18 otherwise, the following definitions apply to parts 1 through 6 of this chapter: 19 20 (1) A-slot-machine-is-defined-as-a-machine-operated-by 21 inserting--a--coiny--tokeny--chipy--trade--checky--or--paper 22 currency-therein-by-the-player-and-from-the-play-of-which-he 23 obtains-or-may-obtain-money;-checks;-chips;-tokens;-or-paper

24 currency--redeemable--in-money--Merchandise-vending-machines

25 where-the-element--of--chance--does--not--enter--into--their

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operation--are--not--within--the--provisions--of--this-part-1 2 "Applicant" means a person who has applied for a license or 3 permit issued by the department pursuant to parts 1 through 4 6 of this chapter. (2) "Application" means a written request for a 5 license or permit issued by the department. The department 6 7 shall adopt rules describing the forms and information required for issuance of a license. 8 (3) "Authorized equipment" means, with respect to live 9 10 keno or bingo, the -- receptacle - and - numbered - objects - drawn 11 from-it--the-master-board-upon-which-such-objects-are-placed 12 as-drawn;-the-cards--or--sheets--bearing--numbers--ot--other 13 designations--to--be--covered--and-the-objects-used-to-cover 14 them7--the--boards--or--signs7--however--operated7--used--to 15 announce--or-display-the-numbers-or-designations-as-they-are 16 drawny--public--address--systemy--and--all--other---articles 17 essential--to--the--operation;--conduct;-and-playing-of-live 18 keno-or--bingo EQUIPMENT THAT MAY BE INSPECTED BY THE 19 DEPARTMENT AND THAT RANDOMLY SELECTS THE NUMBERS OR-SYMBOLS. 20 (4) "Bingo" means a game-of-chance GAMBLING ACTIVITY 21 played for prizes with a card bearing a printed design of 5 22 columns of 5 squares each, 25 squares in all. The letters 23 B-I-N-G-O must appear above the design, with each letter 24 above one of the columns. No more than 75 numbers OR-SYMBOLS may be used. One number OR--SYMBOB must appear in each 25

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1	squareexcept-for-the-center-square-which-isconsidereda
2	freeplay, EXCEPT FOR THE CENTER SQUARE, WHICH MAY BE
3	CONSIDERED A FREE PLAY. Numbers and-letters ORSYMBO55 are
4	RANDOMLY drawn froma-receptacle-and-announced-by-a-bingo
5	caller using authorized equipment7-and UNTIL the game is won
6	by the person OR PERSONS who first covers COVER a previously
7	designated arrangement of numbers OR-SYMBOBS on the bingo
8	card.
9	(5) "Bingo caller" means a person licensed-by-the
10	department-to-work-as-a-live-bingo-caller 18 YEARS OF AGE OR
11	OLDER who, using authorized equipment, announces the order
12	of the objects NUMBERS OR-SYMBOLS drawn in live bingo.
13	(6) "Card game table" or "table" means a live card
14	game table authorized by permit and made available to the
15	public on the premises of a licensed gambling operator.
16	(7) "Dealer" means a person with a dealer's license
17	issued under part 3 of this chapter.
18	(8) "Department" means the department of justice.
19	(9) "Distributor" means a person who:
20	(a) purchases or obtains from another person equipment
21	of any kind for use in gambling activities; and
22	(b) sells, leases, or otherwise furnishes the
23	equipment to another person for use in public.
24	(10) "Gambling" or "gambling activity" means risking
25	money, credit, deposit, check, property, or any other thing

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1	of value for a gain that is contingent in whole or in part
2	upon lot, chance, or the operation of a gambling device or
3	gambling enterprise.
4	(11) "Gambling device" means a mechanical,
5	electromechanical, or electronic device, machine, slot
б	machine, instrument, apparatus, contrivance, scheme, or
7	system USED OR INTENDED FOR USE IN ANY GAMBLING ACTIVITY.
8	(12) "Gambling enterprise" means an activity, scheme,
9	or agreement or an attempted activity, scheme, or agreement
10	to provide gambling or a gambling device to the public.
11	(13) "GROSS PROCEEDS" MEANS GROSS REVENUE RECEIVED LESS
12	PRIZES PAID OUT.
13	(13)(14) "Illegal gambling device" means a gambling
14	device not specifically authorized by statute or by the
15	rules of the department.
16	<pre>{14}(15) "Illegal gambling enterprise" means a gambling</pre>
17	enterprise that violates a statute or a rule of the
18	department.
1 9	<pre>tight the time of tim</pre>
20	are awarded using a card with 8 horizontal rows and 10
21	columns on which a player may pick up to 10 numbers. A keno
22	caller, using authorized equipment, shall select at random
23	AT LEAST 20 numbers out of numbers between 1 and 80,
24	<u>inclusive.</u>
25	<u> </u>

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1	departmentto-work-as-a-live-keno-caller 18 YEARS OF AGE OR
2	OLDER who, using authorized equipment, announces the order
3	of the numbers drawn in live keno.
4	<pre> ticense" means an operator's, dealer's, </pre>
5	caller's or manufacturer-distributor's license issued to a
6	person by the department.
7	(18)(19) "Licensee" means a person who has received a
8	license from the department.
9	[19] (20) "Live card game" ₇ OR "card game" ₇ or"game"
10	means a card game that is played in public between persons
11	on the premises of a licensed gambling operator.
12	<pre>f20;(21) "Lottery" or "gift enterprise" means a scheme,</pre>
13	by whatever name known, for the disposal or distribution of
14	property by chance among persons who have paid or promised
15	to pay valuable consideration for the chance of obtaining
16	the property or a portion of it or for a share or interest
17	in the property upon an agreement, understanding, or
18	expectation that it is to be distributed or disposed of by
19	lot or chance. However, "gift enterprise" does not mean:
20	(a) lotteries authorized under part 10 of this
21	chapter; or
22	(b) cash or merchandise attendance prizes or premiums
23	that the county fair commissioners of agricultural fairs and
24	rodeo associations may give away at public drawings at fairs
25	and rodeos.

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<u>f2if(22)</u> "Manufacturer" means a person who assembles
 <u>from raw materials or subparts a completed piece of</u>
 <u>equipment or pieces of equipment of any kind to be used as a</u>
 <u>gambling device.</u>

5 <u>(22)(23)</u> "Operator" means a person who purchases,
6 receives, or acquires, by lease or otherwise, and operates
7 or controls for use in public, a gambling device or gambling
8 enterprise authorized under parts 1 through 6 of this
9 chapter.

10 <u>f23}(24) "Permit" means approval from the department to</u> 11 <u>make available for public play a gambling device or gambling</u> 12 <u>enterprise approved by the department pursuant to parts 1</u> 13 through 6 of this chapter.

14 (2)(24)(25) In-addition-to-their-ordinary-meaning;--the 15 words--"person" "Person" or "persons";-as-used-in-this-part; 16 include means both natural and artificial persons and all 17 partnerships, corporations, associations, clubs, fraternal 18 orders, and societies, including religious;--fraternal; and 19 charitable organizations.

20 <u>f25f(26)</u> "Premises" means the physical building or 21 property within or upon which a licensed gambling activity 22 occurs, as stated on an operator's license application and 23 approved by the department.

24 <u>f26f(27)</u> "Public GAMBLING" means GAMBLING CONDUCTED IN:
 25 (a) a place, building, or conveyance to which the

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1	public has access or may be permitted to have access; or
2	(b) a place of public resort, including but not
3	limited to a facility owned, managed, or operated by z
4	partnership, corporation, association, club, fraternal
5	order, or society, including a religious7fraternal; or
6	charitable organization.
7	{27}(28) "Raffle" means a gift enterprise in which each
8	participant buys a chance or chances to win a prize.
9	<pre>f28f(29) "Slot machine" means a mechanical, electrical,</pre>
0	electronic, or other gambling device, contrivance, or
11	machine that, upon insertion of a coin, currency, token,
12	credit card, or similar object or upon payment of any
13	valuable consideration, is available to play or operate, the
14	play or operation of which, whether by reason of the skill
15	of the operator or application of the element of chance, or
16	both, may deliver or entitle the person playing or operating
17	the gambling device to receive cash, premiums, merchandise,
18	tokens, or anything of value, whether the payoff is made
19	automatically from the machine or in any other manner. This
20	definition does not apply to video gambling machines
21	authorized under part 6 of this chapter.
22	(29) (30) "Video gambling machine" is a gambling device
23	specifically authorized by part 6 of this chapter and the
24	rules of the department."
25	NEW SECTION. Section 4. Authority of local

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governments to regulate gambling. (1) A local government may
 not license₇ <u>OR</u> regulate₇--or--otherwise--limit a form of
 gambling authorized by parts 1 through 6 of this chapter <u>OR</u>
 <u>ASSESS OR CHARGE ANY FEES OR TAXES</u> unless specifically
 authorized by statute.

6 (2) An incorporated city or town may enact an
7 ordinance or resolution defining ZONING certain areas within
8 its incorporated limits in which gambling is prohibited.

9 (3) A county may enact a resolution defining <u>ZONING</u>
10 certain areas in the county, not within an incorporated city
11 or town, in which gambling is prohibited.

12 (4) A county or incorporated city or town may not 13 restrict the number of licenses that the department may 14 issue.

NEW SECTION. Section 5. Department 15 as criminal 16 justice agency. The department is a criminal justice agency. 17 Designated agents of the department are granted peace 18 officer status, WITH THE POWER OF SEARCH, SEIZURE, AND 19 ARREST, to investigate -- regulate -- and -control-all-legal-and 20 illegal gambling activities in this state regulated by parts 21 1 through 6 of this chapter and the rules of the department 22 AND TO REPORT VIOLATIONS TO THE COUNTY ATTORNEY OF THE COUNTY IN WHICH THEY OCCUR. 23

24NEW SECTION.Section 6. Departmentemployees--25activities prohibited. An employee of the department, A

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FORMER DEPARTMENT EMPLOYEE DURING THE FIRST 365 DAYS FOLLOWING TERMINATION OF EMPLOYMENT, OR ANY OTHER-PERSON PEACE OFFICER OR PROSECUTOR directly involved with the prosecution, investigation, regulation, or licensing of gambling may not:

6 (1) serve as an officer or manager of a corporation or
7 organization, OTHER THAN A NONPROFIT CORPORATION OR
8 ORGANIZATION, that conducts a gambling activity;

9 (2) receive or share in, directly or indirectly, any 10 profit of a gambling activity regulated by the department; 11 (3) have a beneficial or pecuniary interest in a 12 contract for the manufacture, LEASE, or sale of a gambling 13 device, the conduct of a gambling activity, or the provision 14 of independent consultant services in connection with a 15 gambling activity.

16 <u>NEW SECTION.</u> Section 7. Powers and duties of
17 department -- licensing. (1) The department shall administer
18 the provisions of parts 1 through 6 of this chapter.

19 (2) The department shall adopt rules to administer and20 implement parts 1 through 6 of this chapter.

(3) The department shall provide licensing procedures,
prescribe necessary application forms, and grant or deny
license applications.

24 (4) The department shall prescribe recordkeeping25 requirements for licensees, provide a procedure for

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the-department.

1 inspection of records, provide a method for collection of 2 taxes, and establish penalties for the delinquent reporting 3 and payment of required taxes.

(5) The department may suspend, revoke, deny, or place 4 5 a condition on a license issued under parts 1 through 6 of 6 this chapter.

7 (6) The department may not make public or otherwise 8 disclose information obtained in the APPLICATION OR tax 9 reporting processes, except for general statistical 10 reporting or studies.

(7) THE DEPARTMENT SHALL ASSESS, COLLECT, AND DISBURSE 11 ANY FEES, TAXES, OR CHARGES AUTHORIZED UNDER PARTS 1 THROUGH 12 13 6 OF THIS CHAPTER.

NEW SECTION. Section 8. Injunction 14 and other 15 remedies. (1) If it-appears-to-the-department-that-a-person has-engaged-in-or-is-about-to-engage-in-an-act--or--practice 16 17 constituting-a-violation-of-a-provision-of-parts-l-through-6 18 of--this--chapter--or--a-rule-or-order-of-the-department;-it 19 may:

20 fa)--issue-a-temporary--cease--and--desist--order--with 21 reasonable--notice--and-opportunity-for-hearing--Pollowing-a 22 hearing-or-if-the-person-to-whom--the--notice--is--addressed 23 does--not--request-a-hearing-within-15-days-after-receipt-of 24 the-notice,-the-department-may-issue-a-permanent--cease--and 25 desist-order-that-must-remain-in-effect-pending-an-appeal-or

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{b}--bring-without-the-issuance-of-a-cease-and--desist 4 order---an--action--in--district--court-to-enjoin-the-act-or 5 practice --- On-a--proper--showing --- the--court--may--grant--a 6 permanent--or--temporary-injunction7-a-restraining-order7-or 7 other-appropriate-writ-and-appoint-a-receiver-or-conservator 8 for-the-defendant-or-the-defendant-s-assets:-The--department 9 may-not-be-required-to-post-a-bond-10 tet--place-a-licensee-on-probation; 11 (d)--suspend--a--license-for-a-period-not-to-exceed-180 12 davat 13 (e)--revoke-a-license; 14 {f}--deny-renewal-of-a-license-upon-its-expiration; 15 tg)--impose-a-civil-penalty-not-to-exceed--\$10,000-for 16 each--violation--of-a-provision-of-parts-1-through-6-of-this chapter-or-a-rule-of-the--department7--whether--or--not--the 17 18 person-is-licensed-by-the-department; 19 th)--impose--a-combination-of-the-penalties-provided-in 20 21 +2)--A-fine-imposed-by--a--district--court--or--by--the 22 department--under--this--section--must--be--collected-by-the 23 department-and-deposited-in-the-special-revenue--account--as

24 provided-in-23-5-123-

(3)--Imposition--of--a--fine--under--this-section-is-an 25

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judicial--review by-the-person-aggrieved-by-a-final-order-of

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1	order-from-which-an-appeal-may-be-taken-pursuant-to-fsection
2	12].
3	(4)If-a-person-fails-to-pay-a-fine-imposed-under-this
4	section; the fine is - a - lien - on - all - of - the - assets - and
5	propertyof-the-person-in-the-state-and-may-be-recovered-by
6	the-department-in-a-civil-action-
7	(5)If-a-person-fails-to-pay-a-fine-imposed-under-this
8	section;-he-may-not-be-licensed-to-operate-a-gambling-device
9	or-gambling-enterprise-in-the-state-under-parts-l-through6
10	ofthischapter: A PERSON HAS ENGAGED OR IS ENGAGING IN AN
11	ACT OR PRACTICE CONSTITUTING A VIOLATION OF A PROVISION OF
12	PARTS 1 THROUGH 6 OF THIS CHAPTER OR A RULE OR ORDER OF THE
13	DEPARTMENT, THE DEPARTMENT MAY:
14	(A) ISSUE A TEMPORARY ORDER TO CEASE AND DESIST FROM
15	THE GAMBLING ACTIVITY, ACT, OR PRACTICE FOR A PERIOD NOT TO
16	EXCEED 60 DAYS; AND
17	(B) FOLLOWING NOTICE AND AN OPPORTUNITY FOR HEARING,
18	AND WITH THE RIGHT OF JUDICIAL REVIEW, UNDER THE MONTANA
19	ADMINISTRATIVE PROCEDURE ACT:
20	(I) ISSUE A PERMANENT ORDER TO CEASE AND DESIST FROM
21	THE ACT OR PRACTICE, WHICH ORDER REMAINS IN EFFECT PENDING
22	JUDICIAL REVIEW;
23	(II) PLACE A LICENSEE ON PROBATION;
24	(III) SUSPEND FOR A PERIOD NOT TO EXCEED 180 DAYS A
25	LICENSE OR PERMIT FOR THE GAMBLING ACTIVITY, DEVICE, OR
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ENTERPRISE INVOLVED IN THE ACT OR	PRACTICE CONSTITUTING THE
VIOLATION;	
(IV) REVOKE A LICENSE OR	PERMIT FOR THE GAMBLING
ACTIVITY, DEVICE, OR ENTERPRISE	INVOLVED IN THE ACT OR
PRACTICE CONSTITUTING THE VIOLATI	ON;
(V) IMPOSE A CIVIL PENALT	Y NOT TO EXCEED \$10,000 FOR

3	(IV) REVOKE A LICENSE OR PERMIT FOR THE GAMBLING
4	ACTIVITY, DEVICE, OR ENTERPRISE INVOLVED IN THE ACT OR
5	PRACTICE CONSTITUTING THE VIOLATION;
6	(V) IMPOSE A CIVIL PENALTY NOT TO EXCEED \$10,000 FOR
7	EACH VIOLATION, WHETHER OR NOT THE PERSON IS LICENSED BY THE
8	DEPARTMENT; AND
9	(VI) IMPOSE ANY COMBINATION OF THE PENALTIES CONTAINED
10	IN THIS SUBSECTION (1)(B); AND
11	(C) BRING AN ACTION IN DISTRICT COURT FOR RELIEF
12	AGAINST THE ACT OR PRACTICE. THE DEPARTMENT MAY NOT BE
13	REQUIRED TO POST A BOND. ON PROPER SHOWING, THE COURT MAY:
14	(I) ISSUE A RESTRAINING ORDER, A TEMPORARY OR
15	PERMANENT INJUNCTION, OR OTHER APPROPRIATE WRIT;
16	(II) SUSPEND OR REVOKE A LICENSE OR PERMIT; AND
17	(III) APPOINT A RECEIVER OR CONSERVATOR FOR THE
18	DEFENDANT OR THE ASSETS OF THE DEFENDANT.
19	(2) A CIVIL PENALTY IMPOSED UNDER THIS SECTION MUST BE
20	COLLECTED BY THE DEPARTMENT AND DEPOSITED IN THE STATE'S
21	GENERAL FUND AS REQUIRED BY 23-5-123. IF A PERSON FAILS TO
22	PAY THE CIVIL PENALTY, THE AMOUNT DUE IS A LIEN ON THE
23	PERSON'S LICENSED PREMISES AND GAMBLING DEVICES IN THE STATE
24	AND MAY BE RECOVERED BY THE DEPARTMENT IN A CIVIL ACTION.
25	Section 9. Section 23-5-123, MCA, is amended to read:

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1	*23-5-123. Disposal of money confiscated by reason of
2	violation of gambling laws. All-money-seized-or-taken-by-any
3	peaceofficerandconfiscatedbyorder-of-any-courty-by
4	reason-of-a-violation-of-the-gambling-laws-of-thestateof
5	Montana;-shall-be-deposited-with-the-county-treasurer-of-the
6	countyinwhich-such-seizure-and-confiscation-was-made-and
7	shall-be-credited-to-the-poor-fund-of-the-county. All fines,
8	penalties, forfeitures, and confiscated money collected by
9	criminal, civil, or administrative process for a violation
10	of a provision of parts 1 through 6 of this chapter or a
11	rule of the department must be deposited ONE-HALF in a
12	special revenue-account-for-use-by-the-department-for-
13	<u>fl</u> <u>+traininglawenforcementpersonnelinthe</u>
14	investigation-of-illegal-gambling-activity;
15	<u>{2}trainingpersonslicensed-under-the-authority-of</u>
16	the-department;-or
17	<u>t3)funding-programs-designed-totreatpersonswith</u>
18	habitualgamblingproblems THE STATE'S GENERAL FUND AND
19	ONE-HALF IN THE GENERAL FUND OF THE COUNTY IN WHICH THE
20	VIOLATION OCCURRED."
21	NEW SECTION, Section 10. Qualifications for
22	licensure. (1) A person whom the department determines is
23	qualified to receive a license under the provisions of this
24	chapter, except for the provisions of part 10, may, BASED ON
25	INFORMATION AVAILABLE TO, REQUIRED BY, OR SUPPLIED TO THE

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1	DEPARTMENT UNDER DEPARTMENT RULES, be issued a state
2	gambling license.
3	(2)Theapplicanthastheburdenofprovinghis
4	qualification-to-receive-a-license-
5	(2) THE DEPARTMENT SHALL ISSUE A LICENSE UNLESS THE
6	DEPARTMENT CAN DEMONSTRATE THAT THE APPLICANT IS:
7	(A) A PERSON WHOSE PRIOR ACTIVITIES OR CRIMINAL
8	RECORD:
9	(I) POSES A THREAT TO THE PUBLIC INTEREST OF THE STATE
10	OR THE EFFECTIVE REGULATION AND CONTROL OF GAMBLING; OR
11	(II) CREATES A DANGER OF ILLEGAL PRACTICES, METHODS, OR
12	ACTIVITIES IN THE CONDUCT OF GAMBLING OR IN THE CARRYING ON
13	OF THE BUSINESS AND FINANCIAL ARRANGEMENTS INCIDENTAL TO
14	GAMBLING; OR
15	(B) RECEIVING A SUBSTANTIAL AMOUNT OF FINANCING FOR
16	THE PROPOSED OPERATION FROM AN UNSUITABLE SOURCE. A LENDER
17	OR OTHER SOURCE OF MONEY OR CREDIT THAT THE DEPARTMENT FINDS
18	TO MEET THE PROVISIONS OF SUBSECTION (2)(A) MAY BE
19	CONSIDERED AN UNSUITABLE SOURCE.
20	(3)An-application-for-a <u>A</u> license-may-not-begranted
21	unless-the-department-is-satisfied-that-the-applicant-is:
22	{a}apersonofgoodcharacter;honesty;and
23	integrity;
24	(b)a-person-whose-prior-activities;-criminalrecord;

25 if-any;-reputation;-habits;-and-associations-do-not;

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(2) An operator's license must include the following 1 1 tit--pose--a-threat-to-the-public-interest-of-the-state 2 information: 2 or-to-the-effective-regulation-and-control-of--gambling;--or (a) a description of the premises upon which the 3 3 tii)-create--or-enhance-the-dangers A-BANGER of-illegal gambling will take place; 4 practices,--methods,--and--activities--in--the--conduct---of 4 5 (b) the operator's name; 5 gambling-or-in-the-carrying-on-of-the-business-and-financial 6 6 arrangements-incidental-to-the-conduct-of-gambling-and 7 7 (c)--in--all--other--respects--qualified-to-be-licensed 8 8 consistent-with-the-declared-gambling-policy-of--the--state-9 (4)--A--license--to-operate-a-gambling-activity-may-not 9 10 (d) any 10 be-issued-unless--the--applicant--has--demonstrated--to--the necessary by the department. 11 11 department-that: 12 tat--the---applicant--has--adequate--business--probity; 12 13 13 competence;-and-experience;-and 14 licensed to the operator. 14 (b)--the-proposed-financing-of-the-entire-operation-is: 15 15 (i)--adequate-for-the-nature-of-the-proposed-operation; 16 16 and 17 17 (ii)-from-a-suitable-source: ~A-lender-or--other--source 18 of--money--or-credit-that-the-department-finds-does-not-meet 18 issuance of an operator's license. 19 19 the-standards-set-forth-in-subsection-(3)-may-be--considered 20 20 unsuitable:

21 NEW SECTION. Section 11. Operator of gambling 22 establishment -- license -- fee. (1) It is a misdemeanor for 23 a person who is not licensed by the department as an 24 operator to make available to the public for play a gambling 25 device or gambling enterprise.

(c) a description of each gambling device or card game table licensed to the operator by the department for play upon the premises, including the type of game and license number or decal number for each licensed game; and

other relevant information determined

(3) The operator's license must be issued annually along with all other licenses for gambling devices or games

(4) The operator's license must be updated each time a gambling device or card game table license is newly issued or the device or game is removed from the premises.

(5) The department may not charge a fee for the

(6) The operator's license must be prominently displayed upon the premises for which it is issued. 21

NEW SECTION. Section 12. Judicial review. (1) (a) A 22 person aggrieved by a final order of the department may 23 obtain a review of the order in district court by filing 24 with the court, within 30 days after entry of the final 25

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order, a written petition requesting that the order be
 modified or set aside in whole or in part.

(b) A copy of the petition must be served upon the 3 department at the same time. When the department receives 4 5 the copy of the petition, it shall certify and file in court a copy of the filing, testimony, and other evidence upon 6 which the final order was entered by the department. When 7 these have been filed with the court, the court has 8 exclusive jurisdiction to affirm, modify, enforce, or set 9 10 aside the final order in whole or in part. A temporary cease and desist order from the department must MAY remain in 11 12 effect and-cannot-be-set-aside-by-the-court until a hearing 13 has been held and a final order has been issued pursuant to [section 8]. 14

15 (2) (a) The review must be conducted by the district 16 court without a jury and must be confined to the record. In 17 a case of alleged irregularity in procedure before the 18 department not shown in the record, proof may be taken by 19 the court. The court, upon request, shall hear oral argument 20 and receive written briefs.

(b) The court may not substitute its judgment for that of the department as to the weight of the evidence on questions of fact. The court may affirm the decision of the department or remand the case for further proceedings. The court may reverse or modify the decision if substantial SB 0431/06

1 rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, 2 or decisions are: 3 (i) in violation of a constitutional or statutory 4 5 provision; 6 (ii) in excess of the statutory authority of the 7 department: 8 (iii) made upon unlawful procedure: 9 (iv) affected by other error of law; 10 (v) clearly erroneous in view of the reliable, 11 probative, and substantial evidence on the whole record; 12 (vi) arbitrary or capricious or characterized by abuse 13 of discretion or clearly unwarranted exercise of discretion; 14 or 15 (vii) inadequate because findings of fact, upon issues 16 essential to the decision, were requested but not made. 17 (3) The commencement of proceedings under this 18 section, unless specifically ordered by the court, may not operate as a stay of the department's final order. 19 20 Section 13. Section 23-5-131, MCA, is amended to read: 21 "23-5-131. Losses at ILLEGAL gambling may be recovered 22 in civil action. If-any-person,-by-playing-or-betting-at-any 23 of--the--games--prohibited--by--this--party-loses-to-another 24 person-any-sum-of-money--or--thing--of--value--and--pays--or 25 delivers--the--same--or--any--part--thereof--to--any--person

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1	connected-with-the-operating-orconducting-ofsuchgame,
2	eitherasowner;dealer;oroperator;-the-person-who-so
3	loses-and-pays-or-delivers-may;-at-any-time-within60days
4	nextafterthelossand-payment-or-delivery;-sue-for-and
5	recover-the-money-or-thing-of-valuesolostandpaidor
6	deliveredoranypartthereof-from-any-person-having-any
7	interest;-directorcontingent;inthegameasowner;
8	backer;orotherwise;with-costs-of-suit;-by-civil-action
9	before-any-court-of-competentjurisdiction7togetherwith
10	exemplary-damages-which-in-no-case-shall-be-less-than-\$50-or
11	morethan-\$5007-and-may-join-as-defendants-in-said-suit-all
12	persons-having-any-interest;-direct-or-contingent;insuch
13	gameasbackers7owners7orotherwise: A person, or his
14	dependent or guardian, who, by playing or betting at an
15	illegal gambling device or illegal gambling enterprise,
16	loses money, property, or any other thing of value and pays
17	and delivers it to another person connected with the
18	operation or conduct of the illegal gambling device or
19	illegal gambling enterprise, within 1 year following his
20	loss, may:
2 1	(1) bring a civil action in a court of competent
22	jurisdiction to recover the loss;
23	(2) recover the costs of the civil action and
24	exemplary damages of no less than \$500 and no more than
25	\$5,000; and

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2 in the illegal gambling device or illegal gambling 3 enterprise." 4 Section 14. Section 23-5-135, MCA, is amended to read: 5 *23-5-135. Discharge of defendant. Boon-discovery-and 6 repayment--of--the--money--or--other---thing,---the---person 7 discovering--and--repaying--the-same;-with-costs-and-such-an 8 amount-of-exemplary-damages-as-may-be--agreed--upon--by--the 9 parties--or--fixed--by--the--court,--shall--be-acquitted-and 10 discharged-from-any-further-or-other-forfeiturey-punishmenty 11 penalty-or-prosecution-he-or-they-may-have-incurred-for--so 12 winning--such--money--or--thing-discovered-and-repaid; (1) A 13 person against whom a civil action is brought as provided in 14 23-5-131 may move to have the action against him dismissed 15 if he has repaid to the person who suffered the loss or his 16 dependent the gambling loss, the costs of bringing the civil 17 action, and the exemplary damages agreed upon by the parties 18 or assessed by the court. 19 (2) A civil action brought to recover gambling losses 20 does not bar or interfere with another proceeding or action, 21 whether criminal, civil, or administrative, that may be 22 brought under the laws of the state. 23 (3)--The-clerk-of-the-court-shall-notify-the-department 24 of-a JUDGMENT-IN-A civil-action-based-on-a--violation--of--a 25 provision-of-this-chapter-"

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(3) join as a defendant any person having an interest

1 Section 15. Section 23-5-102, MCA, is amended to read: 2 "23-5-102. Gambling prohibited ---penalty. Except as 3 otherwise-provided-by-law;-a-person-who-engages-in--gambling 4 in-any-form-with-cards7-dice7-or-other-implements-or-devices 5 of--any--kind--wherein-anything-valuable-may-be-wagered-upon 6 the--outcome--or--who--keeps---any---establishment;---place; 7 equipment;--or--apparatus-for-such-gambling-or-any-agents-or 8 employees-for-such-purpose-is-quilty-of-a-misdemeanor-and-is 9 punishable-by-a-fine-of-not-less--than--\$100--or--more--than 10 S1-000-or-imprisonment-not-less-than-3-months-or-more-than-1 11 year--or--by--both--such--fine-and-imprisonment specifically 12 authorized by statute, all forms of public gambling, 13 lotteries, and gift enterprises are prohibited."

14 <u>NEW SECTION.</u> Section 16. Counterfeiting or defacing 15 documents -- penalty. (1) A person commits the offense of 16 counterfeiting or defacing a document when he purposely or 17 knowingly counterfeits, alters, or wrongfully displays a 18 seal, decal, license, identification number or device, or 19 other document issued by the department.

20 (2) A person convicted of the offense of
21 counterfeiting or defacing a document is guilty of a felony
22 and must be punished in accordance with [section 24].

Section 17. Section 23-5-108, MCA, is amended to read:
"23-5-108. Soliciting or persuading persons to visit
play illegal gambling resorts device prohibited. Any-person

who-persuades-or-solicits-another-to-visit-any--room;--tent; 1 2 apartmenty--or--place--used--or--represented--by--the-person 3 soliciting-or-persuading-to-be-a-place-used-for-the--purpose 4 of-running-any-of-the-games-prohibited-by-this-part-shall-be S punished-by-a-fine-of-not-less-than-\$100-or-more-than-\$17000 or--imprisonment--not-less-than-3-months-or-more-than-l-year 6 7 or-by-both-such-fine-and-imprisonment-in-the-county-jail- A person who advertises for or solicits another person to play 8 9 or engage in the use of an illegal gambling device is guilty 10 of a misdemeanor and is punishable under (section 23)." NEW SECTION. Section 18. Obtaining anything of value 11 by fraud or operation of illegal gambling device or 12

13 enterprise. (1) A person who by gambling obtains money, 14 property, or anything of value that does not exceed \$300 in 15 value by misrepresentation, fraud, or the use of an illegal 16 gambling device or an illegal gambling enterprise is guilty 17 of a misdemeanor and is punishable as provided in [section 18 23].

19 (2) A person who by gambling obtains money, property, 20 or anything of value that exceeds \$300 in value by 21 misrepresentation, fraud, or the use of an illegal gambling 22 device or an illegal gambling enterprise is guilty of a 23 felony and is punishable as provided in [section 24].

24NEW SECTION.Section 19. Gambling on cash basis. (1)25In every gambling activity, EXCEPT RAFFLES AS AUTHORIZED IN

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1 **[SECTION-41]** 23-5-413, the consideration paid for the chance 2 to play must be cash. A participant shall present the money 3 needed to play the game as the game is being played. A 4 check, credit card, note, IOU, or other evidence of 5 indebtedness may not be offered or accepted as part of the price of participation in the gambling activity or as 6 7 payment of a debt incurred in the gambling activity. THE USE OF A CHECK OR CREDIT CARD TO PAY FOR OTHER GOODS OR 8 SERVICES IN THE ESTABLISHMENT OR TO OBTAIN CASH IS NOT A 9 10 VIOLATION OF THIS SECTION.

11 (2) A person who violates this section is guilty of a 12 misdemeanor and must be punished in accordance with [section 13 23].

NEW SECTION. Section 20. Minors not to participate -penalty. (1) A PERSON MAY NOT PURPOSELY OR KNOWINGLY ALLOW A
person under 18 years of age may--not--be-permitted to
participate in a gambling activity.

18 (2) A person who violates this section is guilty of a
19 misdemeanor and must be punished in accordance with [section
20 23].

Section 21. Section 23-5-103, MCA, is amended to read: "23-5-103. Possession of illegal gambling implements device prohibited -- exception. Any (1) Except as provided in fsection-221 23-5-104 and subsection (2) of this section, it is a misdemeanor punishable under [section 23] for a

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2 possession or under his control or who-permits to PURPOSELY 3 OR KNOWINGLY permit to be placed, maintained, or kept in any 4 room, space, enclosure, or building owned, leased, or 5 occupied by him or under his management or control any-fare 6 box7-faro--layout7--roulette--wheel7--roulette--table7--crap 7 tabley--punchboardy--or-any-machine-or-apparatus-of-the-kind 8 mentioned-in-23-5-102-is-punishable-by-a-fine--of--not--less 9 than--\$100-or-more-than-\$1,000-and-may-be-imprisoned-for-not 10 less-than-3-months-or-more-than-1-year-in-the-discretion--of the--courty--provided-that-this-section-shall-not an illegal 11 gambling device. This section does not apply to a public 12 13 officer or to a person coming into possession thereof of an 14 illegal gambling device in or by reason of the performance 15 of an official duty and holding the-same it to be disposed 16 of according to law. 17 (2) (a) The department may adopt rules to license 18 persons to manufacture gambling devices that are not legal 19 for public play in the state and are manufactured only for 20 export from the state. 21 (b) A person may not manufacture or possess an illegal 22 gambling device for export from the state without having 23 obtained a license from the department. The department may 24 charge an administrative fee for the license that is 25 commensurate with the cost of issuing the license."

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person who--has to PURPOSELY OR KNOWINGLY have in his

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Section 22. Section 23-5-104, MCA, is amended to read: 1 2 *23-5-104. Stot-machines----possession--unlawful----3 exception Possession of antique slot machines. (1) Except-as provided--in--subsections--f2}--through--f5}--it-shall-be-a 4 misdemeanor-and-punishable-as-hereinafter-provided--for--anv 5 6 person--to--user-possess--operater-keep-or-maintain-for-use 7 or-operation-or-otherwise;--anywhere--within--the--state--of 8 Montana,-any-siot-machine-of-any-sort-or-kind-whatsoever. 9 +2+--The--provisions--of-subsection-+1}-and-23-5-121-do not-apply-to-antique-slot-machines-possessed;--located;--and 10 11 used-in-accordance-with-subsections-(2)-through-(5)--Por-the

12 purposes--of--subsections--+2+--through-+5+--an-antique-siot 13 machine-is-a-slot-machine-manufactured-prior--to--1950,---the operation--of--which-is-exclusively-mechanical-in-nature-and 14 is-not-aided-in-whole-or-in-part-by-any-electronic-means. An 15 antique-slot-machine-is-a-slot-machine-manufactured-prior-to 16 1950-that-is-operated-exclusively-by-mechanical-means-and-is 17 18 not-aided-in-whole-or-in-part-by-any-electrical--means- FOR THE PURPOSES OF THIS SECTION, AN ANTIQUE SLOT MACHINE IS A 19 20 SLOT MACHINE MANUFACTURED PRIOR TO 1950, THE OPERATION OF WHICH IS EXCLUSIVELY MECHANICAL IN NATURE AND IS NOT AIDED 21 22 IN WHOLE OR IN PART BY ANY ELECTRONIC MEANS.

23 (3)(2) Except as provided in subsection (4) (3), an
24 antique slot machines machine may be possessed, located, and
25 operated only in a private residential dwilling.

1 (4)(3) Antique--slot--machines An antique slot machine 2 may be possessed or located for purposes of display only and not for operation in any public museum owned and operated by 3 the state of-Montana, or a county, or a city. A LICENSED 4 MANUFACTURER-DISTRIBUTOR MAY POSSESS AND SELL ANTIQUE SLOT 5 6 MACHINES. 7 (4) No antique slot machine may be operated for any 8 commercial or charitable purpose." NEW SECTION. Section 23. Criminal liabilities 9 10 misdemeanor. A person who purposely or knowingly violates a provision of parts 1 through 6 of this chapter, the 11 12 punishment of which is for a misdemeanor, $must_7$ upon 13 conviction, OF A FIRST OFFENSE be fined not less MORE than \$500 or-more-than-\$570007 or-imprisoned-for-not-more-than-1 14 yeary-or-bothy-for-each-violation. UPON A SECOND CONVICTION 15 16 WITHIN 5 YEARS OF A FIRST CONVICTION, A PERSON MUST BE FINED NOT MORE THAN \$1,000 OR IMPRISONED IN THE COUNTY JAIL FOR 17 NOT MORE THAN 6 MONTHS, OR BOTH. UPON A THIRD CONVICTION 18 WITHIN 5 YEARS OF A SECOND CONVICTION, A PERSON MUST BE 19 20 FINED NOT MORE THAN \$10,000 OR IMPRISONED IN THE COUNTY JAIL FOR NOT MORE THAN 1 YEAR, OR BOTH, UPON A FOURTH CONVICTION 21 WITHIN 5 YEARS OF A THIRD CONVICTION, A PERSON MUST BE FINED 22 NOT MORE THAN \$10,000 OR IMPRISONED IN THE COUNTY JAIL FOR 23 NOT MORE THAN 1 YEAR, OR BOTH, AND THE DEPARTMENT SHALL 24

25 REVOKE ALL LICENSES AND PERMITS THE PERSON HOLDS UNDER PARTS

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and an actual of the construction and a construction and the second backet of the second states of the second states of the second states and the second states of the second states and the

1 1 THROUGH 6 OF THIS CHAPTER AND THE PERSON IS FOREVER BARRED 2 FROM RECEIPT OF ANY LICENSE OR PERMIT UNDER THIS CHAPTER. 3 WHEN 5 YEARS HAVE PASSED FOLLOWING A CONVICTION, THE RECORD 4 OF THAT CONVICTION MAY BE MADE AVAILABLE ONLY TO CRIMINAL 5 JUSTICE AGENCIES OR UPON COURT ORDER. NEW SECTION. Section 24. Criminal liabilities --6 7 felony. A person who purposely or knowingly violates a 8 provision of parts 1 through 6 of this chapter, the 9 punishment for which is a felony, may upon conviction be 10 fined not more than \$50,000 or imprisoned for not more than 11 10 years, or both, for each violation. However, -- if -- the

12 person--previously--has-been-convicted-of-a-felony-involving 13 a--qambling---device;---qambling---activity;---or---gambling enterprise,-he-must-be-imprisoned-for-at-least-2-years-14

NEW SECTION. Section 25. Prosecution. The county 15 16 attorney of the county in which a violation of a provision 17 of parts 1 through 6 of this chapter occurs shall prosecute 18 all gambling actions within the jurisdiction of the 19 department. However, if the county attorney declines 20 prosecution or fails to commence an action within a 21 reasonable time, the attorney general may initiate and conduct the prosecution on behalf of the state. 22

23 Section 26. Section 23-5-311, MCA, is amended to read: 24 *23-5-311. Authorized card games. (1)-It--is--unlawful 25 for-any-person-to-conduct-or-participate-in-any-card-game-or

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1	make-any-tables-available-fortheplayingofcardgames
2	except-those-card-games-authorized-by-this-part-
3	(2) The card games authorized by this part are and
4	are limited to the card games known as bridge, cribbage,
5	hearts, panguingue, pinochle, pitch, <u>poker</u> <u>{fiNGEUDING-JACKS</u>
6	OR-BETTER;, rummy, solo, and whist;-solo;-and-poker.
7	(2) A person may only conduct or participate in a live
8	card game or make a live card game table available for
9	public play of a live card game that ONLY IF IT is
10	specifically authorized by this part and described by
11	department rules.
12	(3) This part does not apply to games simulated on
13	electronic video gambling machines authorized under part 6
14	of this chapter."
15	NEW SECTION. Section 27. Presence and control of
16	dealer. A live card game may not be played except on a live
17	card game table in the presence and under the control of a
18	licensed dealer on the premises of a licensed operator.
19	NEW SECTION. Section 28. Card game dealers
20	license. (1) A person may not deal cards in a live card game
21	without being licensed annually by the department.
22	(2) The fee for each <u>THE FIRST</u> year in which the
23	license is effective mustbecommensuratewiththe

administrative--costs--associated--with--dealer-licensing-as 24

established-by-department--rules IS \$75, AND THE ANNUAL 25

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1 RENEWAL FEE IS \$25. The fee may not be prorated.

2 (3) The department shall retain for administrative
3 purposes the license fee charged for the issuance of a
4 dealer's license.

5 (4) A licensed dealer shall have on his person, and 6 display upon request, his dealer's license when he is 7 working as a dealer.

(5) The department may SHALL adopt rules to implement 8 temporary licensing procedures until a permanent license is 9 issued to a dealer. THE RULES MUST PROVIDE THAT A TEMPORARY 10 LICENSE MAY BE OBTAINED AT THE PLACE WHERE A PERSON LOCALLY 11 APPLIES FOR A DRIVER'S LICENSE AND THAT THE RECEIPT RECEIVED 12 UPON MAILING AN APPLICATION FOR A PERMANENT LICENSE BY 13 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ALSO CONSTITUTES A 14 TEMPORARY LICENSE. The department may delegate-the-authority 15 to-issue-temporary-licenses-to-local--governments--including 16 17 the--authority--to NOT assess and--retain a fee for the 18 temporary license.

19 <u>NEW SECTION.</u> Section 29. Live card game table --20 permit -- fees -- disposition of fees. (1) A person who has 21 been granted an operator's license under [section 11] and a 22 license under--16-4-401(2) to sell alcoholic beverages for 23 consumption on the premises <u>OR-WHO-OPERATES-AN-ESTABLISHMENT</u> 24 <u>POR-THE-PRINCIPAL-PURPOSE-OF-GAMING-AND-HAS-BEEN-GRANTED--AN</u> 25 <u>OPERATOR'S--LICENSE--UNDER--{SECTION--11}</u> may be granted an

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1 annual permit for the placement of live card game tables. 2 IF ONE OR MORE LIVE CARD GAME TABLES WERE LEGALLY OPERATED ON A PREMISES ON JANUARY 15, 1989, AND THE PREMISES WERE NOT 3 ON THAT DATE LICENSED UNDER 16-4-401(2) BUT WERE LICENSED ON 4 5 THAT DATE TO SELL FOOD, CIGARETTES, OR ANY OTHER CONSUMABLE б PRODUCT, AN OPERATOR'S LICENSE AND AN ANNUAL PERMIT FOR THE 7 PLACEMENT OF LIVE CARD GAME TABLES MAY BE GRANTED TO THE R PERSON WHO LEGALLY OPERATED THE PREMISES ON JANUARY 15, 9 1989. 10 (2) The annual permit fee in lieu of taxes for each 11 live card game table operated in a licensed operator's premises may not be prorated and must be: 12 13 (a) \$250 for the first table; AND 14 (b) \$750 \$500 for the-second-table;-and 15 (c)--\$17000-for-the-third-and each additional table. 16 (3) The department shall retain for administrative 17 purposes \$100 of the fee collected under this part for each 18 live card game table. 19 (4) The department shall forward on a quarterly basis 20 the remaining balance of the fee collected under subsection (2) to the treasurer of the county, or the clerk, finance 21 22 officer, or treasurer of the city or town in which the live 23 card game table is located for deposit to the county or

25 FROM FEES ASSESSED ON LIVE CARD GAME TABLES LOCATED IN

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municipal treasury. A COUNTY IS NOT ENTITLED TO PROCEEDS

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3

INCORPORATED CITIES AND TOWNS WITHIN THE COUNTY. The-local
 government-portion-of-this-fee-is--statutorily--appropriated
 to-the-department-as-provided-in-17-7-502-for-deposit-to-the
 county--or--municipal-treasury: THE LOCAL GOVERNMENT PORTION
 OF THIS FEE IS STATUTORILY APPROPRIATED TO THE DEPARTMENT,
 AS PROVIDED IN 17-7-502, FOR DEPOSIT TO THE COUNTY OR
 MUNICIPAL TREASURY.

Section 30. Section 23-5-321, MCA, is amended to read: 8 9 "23-5-321. Licensing Issuance of permits by local 10 governing bodies prohibited. (1)-Any A city, town, or county 11 may not issue licenses permits for the live card games 12 provided-for or live card game tables authorized in this 13 part. to--be-conducted-on-premises-which-have-been-licensed 14 for-the-sale-of-liquor7-beer7-food7-cigarette37-or-any-other consumable--products---Within--the--cities--or--towns---such 15 16 licenses--may--be--issued--by--the--city--or-town-council-or 17 18 the-limits-of-any-city-or-town-may-be-issued-by--the--county 19 commissioners-of-the-respective-counties--When-a-license-has 20 been--required--by--any--city--town--or-county--no-game-as 21 provided-for-in-this-part-shall-be-conducted-on-any-premises 22 which-have-been-licensed-for-the-sale-of-liquor-beer-food-23 cigarettes,-or-any-other--consumable--product--without--such 24 license-having-first-been-obtained.

25 (2)--Any--governing--body--may-charge-an-annual-license

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fee-for-each--license--so--issued--under--this--part;--which license--fee;--if-any;-shall-expire-on-dune-30-of-each-year; and-such-fee-shall-be-prorated;

4 (3)--Any-license-issued-pursuant-to-this-part-shall-be
5 deemed--to--be--a-revocable-privilege7-and-no-holder-thereof
6 may-acquire-any-vested-rights-therein-or-thereunder."

Section 31. Section 23-5-312, MCA, is amended to read:
"23-5-312. Prizes not to exceed one three ONE THREE
hundred dollars. No--prize--for--any-individual-game-shall
exceed-the-value-of-\$100- A prize for an individual live
card game may not exceed the value of \$300 \$100 \$300. Games
shall may not be combined in any manner so as to increase
the value of the ultimate prize awarded."

NEW SECTION. Section 32. Live card game tables --14 hours of play -- restriction ---exception. Live card game 15 tables must be closed for play between the hours of 2 a.m. 16 and 8 a.m. each day. However, -- in -- the -- jurisdiction -- of -- a 17 local--government--where--the--table--is--locatedy-the-local 18 government-may-adopt-an-ordinance-defining-the-hours-of-play 19 within-that-jurisdiction- HOWEVER, IN THE JURISDICTION OF A 20 21 LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2 22 23 A.M. AND 8 A.M. 24 Section 33. Section 23-5-313, MCA, is amended to read: *23-5-313. Rules of play to be posted -- rake-off 25

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1 approved. Rules governing the conduct of each game shall 2 must be prominently posted within the sight of the players 3 at a live card game table on the premises of any--licensed 4 establishment--where--such--game--is--conducted a licensed operator. Such The rules shall must include notice of the 5 6 maximum percentage rake-off, if any, and shall must require 7 that the person taking the rake-off do so in an obvious 8 and--only--after--announcing--the--amount--of--each manner 9 rake-offy-which-shall-only-be-taken--at--the--conclusion--of 10 each--game--when--the-winner-of-each-individual-pot-has-been 11 determined."

Section 34. Section 23-5-331, MCA, is amended to read: 12 13 *23-5-331. Penalty. Every A person who willfully purposely or knowingly violates or who procures, aids, or 14 15 abets in the--withful a violation of this part or any 16 ordinance, resolution, or regulation rule adopted pursuant 17 thereto-shall--be--deemed to this part is quilty of a 18 misdemeanor and-upon-conviction-shall-be-punished-by-a-fine 19 of-not-more-than-\$1,000-or-imprisonment-in-the--county--jail for--not--more-than-3-monthsy-or-both punishable pursuant to 20 21 [section 23]."

NEW SECTION. Section 35. Authorized live bingo, keno,
and raffles. (1) A person may only conduct or participate in
a live bingo and keno game or raffle <u>ONLY IF IT IS</u> operated
pursuant to this part.

1 (2) This part does not apply to a game simulated on a 2 video gambling machine authorized by part 6 of this chapter. 3 NEW SECTION. Section 36. Exempt charitable 4 organizations. An organization gualified for exemption under 5 26 U.S.C. 501(c)(3) and (c)(4) ON JANUARY 15, 1989, is б exempt from the taxation and license fees imposed by this 7 part. AN ORGANIZATION QUALIFIED FOR EXEMPTION UNDER THAT 8 SECTION AFTER THAT DATE IS EXEMPT FROM TAXATION UNDER, AND 9 NEED ONLY PAY ONE-HALF THE LICENSE FEES UNDER, THIS PART IF THE ORGANIZATION CARRIES ON GAMBLING ACTIVITIES FOR NO MORE 10 11 THAN 60 DAYS A CALENDAR YEAR AND IF THE ACTIVITIES ARE 12 LIMITED TO ITS MAIN PREMISES OR PLACE OF OPERATIONS AND TO EVENTS AT OTHER PLACES OPERATED BY OTHER CHARITABLE 13 ORGANIZATIONS OR BY A GOVERNMENT UNIT OR ENTITY. The 14 organization shall comply with other statutes and rules 15 relating to the operation of live bingo and keno or raffles. 16 17 A qualified organization shall apply to the department for a 18 cost-free permit to conduct charitable live bingo and keno 19 games or raffles. THE DEPARTMENT MAY REVOKE OR SUSPEND THE PERMIT OF A QUALIFIED ORGANIZATION 20 THAT. AFTER 21 INVESTIGATION, THE DEPARTMENT DETERMINES IS CONTRACTING WITH A NONQUALIFIED ORGANIZATION TO OPERATE LIVE BINGO, KENO, OR 22 RAFFLES IN A PREDOMINANTLY COMMERCIAL MANNER. 23 24 NEW-SECTION---Section-37---Bingo-and--keno--callers---qualifications----license----feet--(1)-A-person-may-not-act 25

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2 the-department; 3 12)--The-fee-for-each-year--in--which--the--license--is effective--must--be--commensurate--with-the-costs-associated 5 with-bingo--or--keno--caller--licensing--as--established--by department-rules--The-fee-may-not-be-prorated-6 +3)--The--department--shall--retain--for-administrative 7 8 purposes-the-license-fee-charged-for-the-issuance-of-a-bingo or-keno-calleris-license. 9 f4}--A-bingo-or-keno-caller-shall-have-on--his--person7 10 and-display-upon-request;-his-bingo-or-keno-caller's-license 11 12 whenever-he-is-working-as-a-bingo-or-keno-caller-13 (5)--The---department--may--adopt--rules--to--implement 14 temporary-licensing-procedures-until-a-permanent-license--is 15 issued---The--department-may-delegate-the-authority-to-issue 16 temporary--licenses--to--local--governments;--including--the 17 authority--to--assess--and--retain--a--fee--for--a-temporary 18 license: NEW SECTION. Section 37. Live bingo or keno permit --19 20 fees -- disposition of fees. (1) A person who has been granted an operator's license may be granted an annual 21 permit by the department to conduct live bingo or keno games 22

as-a-bingo-or-keno-caller-without-being-licensed-annually-by

24 (2) The permit fee for each of the premises in which a

on specified premises.

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25 live bingo or keno game is conducted may not be prorated and

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must be \$500. 1

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2 (3) The department shall retain the permit fee for 3 administrative costs.

NEW SECTION. Section 38. Bingo 4 and keno 91033 proceeds tax -- records -- distribution -- guarterly 5 statement and payment. (1) A licensee who has received a 6 7 permit to operate bingo or keno games shall pay to the 8 department a tax of 3% 5% of the gross-proceeds NET INCOME from the operation of each live bingo and keno game operated 9 on his premises. FOR PURPOSES OF THIS SECTION, "NET INCOME" 10 11 MEANS GROSS PROCEEDS, AS DEFINED IN 23-5-101, MINUS THE COST OF EQUIPMENT, SUPPLIES, PERSONNEL, AND ADVERTISING ALLOCATED 12 TO THE GAMES. IF IN ANY YEAR 5% OF NET INCOME DOES NOT EQUAL 13 14 1% OF GROSS PROCEEDS, THEN THE LICENSEE SHALL PAY A TAX OF 15 1% OF GROSS PROCEEDS. (2) A licensee shall keep a record of gross proceeds 16 17 AND NET INCOME in the form the department requires. At all 18 times during the business hours of the licensee the records 19 must be available for inspection by the department. 20 (3) A licensee shally-within-15-days-after-the-end--of 21 each---guarter; ANNUALLY complete and deliver to the 22 department a statement showing the total gross proceeds AND 23 NET INCOME for each live keno or bingo game operated by him and the total amount due as live bingo or keno gross 24 proceeds tax for the preceding quarter YEAR. This statement 25

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must contain any other relevant information required by the
 department.

3 (4) The department shall forward the tax collected under subsection (3) to the treasurer of the county or the 4 5 clerk, finance officer, or treasurer of the city or town in б which the licensed game is located for deposit to the county 7 or municipal treasury. A county is not entitled to proceeds 8 from taxes on live bingo or keno games located in 9 unincorporated INCORPORATED cities and towns within the 10 county. The---tax---collected---under--subsection--+3}--is 11 statutorily-appropriated-to-the-department--as--provided--in 12 17-7-502--for--deposit--to-the-county-or-municipal-treasury-13 THE TAX COLLECTED UNDER SUBSECTION (3) IS STATUTORILY 14 APPROPRIATED TO THE DEPARTMENT, AS PROVIDED IN 17-7-502, FOR 15 DEPOSIT TO THE COUNTY OR MUNICIPAL TREASURY.

16 Section 39. Section 23-5-412, MCA, is amended to read: 17 *23-5-412. Bingo Card prices and prizes. The price for 18 an individual bingo or keno card may not exceed 50 cents. 19 Bingo prizes may be paid in either tangible personal property or cash--except--that--a--prize--must-be-paid-in 20 21 tangible-personal-property--if--the--game--is--played--on--a 22 **płayer-operated--electronic-video-game-machine.** A prize may 23 not exceed the value of \$100 \$300 \$100 for each individual 24 bingo award or keno card. The-price-for-an-individual-bingo 25 card-may-not-exceed-50-cents. It shall-be is unlawful to, in

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1	any manner, combine any awards so as to increase the
2	ultimate value of such the award. <u>A PLAYER MAY GIVE THE</u>
3	CALLER A CARD WITH INSTRUCTIONS ON THE CARD TO PLAY THAT
4	CARD AND ITS MARKED NUMBERS FOR UP TO THE NUMBER OF
5	SUCCESSIVE GAMES THAT THE HOUSE ALLOWS AND THAT THE PLAYER
6	HAS INDICATED ON THE CARD, UPON PAYMENT OF THE PRICE PER
7	GAME TIMES THE NUMBER OF SUCCESSIVE GAMES INDICATED. THE
8	PLAYER SHALL REMAIN ON THE HOUSE PREMISES UNTIL THE CARD IS
9	PLAYED OR WITHDRAWN. THE CALLER SHALL KEEP THE CARD UNTIL
10	THE END OF THE NUMBER OF GAMES INDICATED, AND THE DEPARTMENT
11	MAY BY RULE PROVIDE THAT AT THAT TIME THE CALLER SHALL PAY
12	THE PLAYER ANY PRIZES WON."
13	Section 40. Section 23-5-413, MCA, is amended to read:
14	"23-5-413. Raffle prizes restrictedexemption
15	PERMITS EXCEPTION. (1) Raffle prizes must-be-intangible
16	personalpropertyonlyandnotinmoneycashstocks-
17	bonds;evidencesofindebtedness;orotherintangible
18	personalpropertyand must not exceed the value of \$1,000
19	for each individual raffle card <u>ticket</u> . It shallbe is
20	unlawful to, in any manner, combine any awards so as to
21	increase the ultimate value of such-award the prize awarded
22	for each ticket.
23	(2) A separate permit must be issued by the board of
24	county commissioners for each raffle conducted within its
25	jurisdiction. The permit must be issued before the raffle
	jurisdiction. The permit must be issued before the fairle

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1 may be conducted. A person who has conducted a raffle must 2 submit an accounting to the board of county commissioners 3 within 30 days following the completion of the raffle. The 4 sale of raffle tickets authorized by this part is restricted 5 to events and participants within the geographic confines of 6 the state. 7 (2)(3) (a) The restrictions of subsection (1) do not

8 apply to a raffle conducted by a nonprofit corporation, 9 religious corporation sole, or other nonprofit organization 10 when <u>if</u> the corporation or organization is licensed 11 <u>permitted</u> by the board of county commissioners to conduct 12 the raffle. A-separate-license-shall-be--required--for--each 13 raffle-conducted.

(b) The <u>nonprofit</u> organization or corporation seeking
the-license <u>permission</u> under subsection (2)(3)(a) must shall
apply to the board of county commissioners for the license
permit and must provide the following information:

18 (i) the cost and number of raffle tickets to be sold;
19 (ii) the charitable purposes the proceeds of the raffle
20 are intended to benefit; and

21 (iii) the proposed prizes and their value.

(c) The proceeds from the sale of the raffle tickets
are-to may be used only for charitable purposes or to pay
for prizes. The raffle prize must be in tangible personal
property only and not in money, cash, stock, bonds, evidence

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of indebtedness, or other intangible personal property. None
 of the proceeds may be used for the administrative cost of
 conducting the raffle.

4 (d)--The--corporation--or-organization--conducting-the raffle-must-submit-an-accounting--to--the--board--of--county 5 6 commissioners-within-30-days-following-the-completion-of-the 7 raffle---The-person-or-persons-submitting-the-application-to 8 the-board-of-county-commissioners-along-with-the-corporation or-organization-conducting-the-raffle-shall--be--responsible 9 for--submitting--the--accounting--to--the--board--of--county 10 commissioners-" 11

12 Section 41. Section 23-5-414, MCA, is amended to read:

13 23-5-414. Restrictions on bingor and kenor-and-raffles 14 ---bingo-or-keno-machines-in-establishment-limit----hours-of 15 operation----exception. (1) In the playing of live bingo or 16 keno, no a person who is not physically present on the 17 premises where the game is actually conducted shall may not 18 be allowed to participate as a player in the game.

19 (2)--Raffles---authorized---by---this---part--shall--be 20 restricted-to-events-and-participants-within-the--geographic 21 confines-of-the-state-of-Montana-22 (3)--No---establishment---may--receive--licenses--under

23 23-5-421-for-or-make-available-for-play-more-than--15--bingo

24 or--keno--machinest--A--local--governing--body7-however7-may

25 restrict-the-number-of-licensed-machines-available-for--play

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1	in-an-establishment-to-less-than-15,-but-must-allow-at-least	1
2	5.	2
3	<pre>t4)ta)-Exceptasprovidedin-subsection-t4)tb);-an</pre>	3
4	establishment-that-receives-a-license-tomakeabingoor	4
5	kenomachineavailable-for-play-must-have-the-machine-shut	5
6	off-each-day-duringthehoursprovidedin16-3-304for	6
7	closureoflicensedretailalcoholicbeverage	7
8	establishments.	8
9	<pre>(b)A-local-governing-body-may-establish-any-hoursof</pre>	9
10	playfor-bingo-or-keno-machines-that-it-determines-proper;"	10
11	NEW SECTION. Section 42. Hours of play	11
12	restrictionspenalty. (1) A live bingo or keno game must	12
13	be closed for play between the hours of 2 a.m. and 8 a.m. of	13
14	each day. However, in the jurisdiction of a local government	14
15	where-the-live-bingo-orkenogameisplayed;thelocal	15
16	governmentmayadoptan-ordinance-defining-other-hours-of	16
17	play-within-that-jurisdiction-	17
18	(2)A-violationofthissectionisamisdemeanor	18
19	punishableunder-fsection-23]. HOWEVER, IN THE JURISDICTION	19
20	OF A LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL	20
21	GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2	21
22	A.M. AND 8 A.M.	22
23	Section 43. Section 23-5-431, MCA, is amended to read:	23
24	*23-5-431. Penalty Criminal penalty. Every A person	24
25	who willfully purposely or knowingly violates or who	25

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procures, aids, or abets in the-willful a violation of this part or any ordinance, resolution, or regulation rule adopted pursuant thereto-shall-be-deemed to this part is quilty of a misdemeanor and--upon--conviction--shall--be punished-by-a-fine-of-not-more-than-\$1,000--or--imprisonment in--the--county--jail--for--not--more-than-3-months--or-both punishable pursuant to [section 23]." Section 44. Section 23-5-602, MCA, is amended to read: "23-5-602. Definitions, As used in this part, the following definitions apply: "Associated equipment" means all proprietary devices, machines, or parts used in the manufacture or maintenance of a video draw--poker gambling machine, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, and metering devices, and cabinetry. (2)--"Bepartment"-means-the-department-of-commerce-(2) "Bingo machine" means an electronic video gambling machine that, upon insertion of cash, is available to play bingo as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that

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ally with the part of the second s

1	directly dispenses coins, cash, tokens, or anything else of
2	value.
3	(3) "Draw poker machine" means an electronic video
4	gambling machine that, upon insertion of cash, is available
5	to play or simulate the play of the game of draw poker, as
6	defined by rules of the department. The machine utilizes a
7	video display and microprocessors in which, by the skill of
8	the player, by chance, or both, the player may receive free
9	games or credits that may be redeemed for cash. The term
10	does not include a slot machine or a machine that directly
11	dispenses coins, cash, tokens, or anything else of value.
12	(3)<u>(4)</u> "Keno machine" means an electronic video game
13	gambling machine that, upon insertion of cash, is available
14	to play or-simulate-the-play-of-the-game-of keno or-bingo as
15	providedinpart4of-this-chapter,-utilizing defined by
16	rules of the department. The machine utilizes a video
17	display and microprocessors; in which, by the skill of the
18	player, or by chance, or both, the player may receive free
19	games or credits that ean may be redeemed for cash. The term
20	does not include a <u>slot machine or a</u> machine that directly
21	dispenses coins, cash, tokens, or anything else of value.
22	(4)"bicensed-establishment"-means:
23	<pre>(a)with-respect-to-the-licensure-of-keno-machines;-an</pre>
24	establishment-that-is-licensed-to-sellalcoholicbeverages
25	for-consumption-on the premises-or-an-establishment-licensed
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1	under-23-5-421;-and
2	tb)withrespect-to-the-licensure-of-wideo-draw-poker
3	machines;anestablishmentthatislicensedtosell
4	alcoholic-beverages-for-consumption-on-the-premises-
5	(5)" bicensee"meansanindividual;partnership;
6	corporation-or-association-that-has-been-issuedalicense
7	bythedepartment-for-the-placement-and-operation-of-video
8	drawpokermachinesorkenomachinesinthelicensed
9	establishmentofthe-individual;-partnership;-corporation;
10	or-association.
11	(6) "Manufacturer-distributor"meansanindividual ;
12	partnership;corporation;orassociationthat-assembles;
13	produces;-and-makes-or-supplies-video-draw-poker-machines-or
14	associated-equipment-for-sale;-use;-or-distribution-inthis
15	stater
16	<pre>f7)(5) "Net machine income" means money put into a</pre>
17	video draw-poker-or-keno gambling machine minus credits paid
18	out in cash.
19	(8)Used-keno-machinemeans-a-keno-machine;-asthat
20	term -is-defined-in-this-section;-that-is-owned-or-possessed
21	by an applicant on the day he applies for a license for - the
22	usedmachineandthatwas-owned-or-operated-in-the-state
23	prior-to-June-307-1987-
24	(9)#Used-video-draw-poker-machine#-means-a-video-draw
25	poker-machiney-as-that-termisdefinedinthissectiony
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1 which--is--owned--or-possessed-by-an-applicant-on-the-day-he applies-for-a-license-for-the-used--machine--and--which--was 2 3 owned-or-operated-in-the-state-prior-to-February-37-1984-4 (10)-"Video--draw--poker--machine"--means-an-electronic 5 video--game--machine--that7--upon--insertion--of--cash7---is 6 available-----play-or-simulate-the-play-of-the-game-of-draw 7 poker--as-provided-in-this-party-utilizing-a--video--display 8 and--microprocessors-in-which;-by-the-skill-of-the-player-or 9 by-chance_-or-both_-the-player-may--receive--free--games--or 10 credits--that--can--be--redeemed-for-cash--The-term-does-not 11 include-a--machine--that--directly--dispenses--coins;--cash; 12 tokensy-or-anything-else-of-value-13 (6) "Video gambling machine manufacturer-distributor" 14 means a person who assembles, produces, makes, OR supplies7 15 or--repairs video gambling machines or associated equipment 16 for sale, use, or distribution in the state." 17 Section 45. Section 23-5-603, MCA, is amended to read: "23-5-603. Video draw-poker-or-keno gambling machines 18 19 -- possession -- play -- hours-of-play--- restriction. (1)

19 -- possession -- play -- nours-of-pray--- restriction. (1) 20 No-person-may-place-an-electronic-video--game--machine--that 21 simulates--or--offers-a-game-of-poker,-bingo,-or-keno-in-his 22 licensed-establishment-unless-he-is-licensed-under-23-5-612-23 A person may only make available for public_play_ONLY_the 24 NUMBER_OF_APPROVED_video_gambling_machines_specifically 25 authorized by this part.

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1	(2) The video gambling machines specifically
2	authorized by this part are bingo, keno, and draw poker
3	machines. A-person-may-not-make-available-for-public-playa
4	videogambling-machine-unless-he-has-obtained-an-operator+s
5	license. Machineslicensed Only THE NUMBER OF APPROVED
6	machines for which permits have been granted under 23-5-612
7	are-legal;-and-it-is-legal-toplaysuchmachines;except
8	that-a-person-under-the-age-of-10-years-may-not-play-a-video
9	draw-poker-or-keno-machine may be made available for play by
10	the public on the premises of a licensed operator. THE
11	DEPARTMENT SHALL ADOPT RULES ALLOWING A VIDEO GAMBLING
12	MACHINE THAT NEEDS REPAIR TO BE TEMPORARILY REPLACED WHILE
13	IT IS BEING REPAIRED WITH A VIDEO GAMBLING MACHINE THAT IS
14	APPROVED UNDER THE PERMIT PROVISIONS OF THIS PART. A FEE
15	MAY NOT BE CHARGED FOR THE REPLACEMENT MACHINE.
16	{?} Exceptasprovidedinsubsection(3) an
17	establishmentthatreceives-a-license-to-make-a-video-draw
18	poker machine-available-for-play-must-have-the-machineshut
19	offeachdayduringthehoursprovided-in-16-3-304-for
20	closureoflicensedretailalcoholicbeverage
21	establishments.
22	(3) Alocal-governing-body-may-establish-any-hours-of
23	play-forvideodrawpokermachinesthatitdetermines
24	proper-
25	(4)Theprovisionsofpart-3-of-this-chapter-do-not

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1	applytoorprohibit-video-draw-poker-or-keno-machines-or
2	the-playing-of-such-machines.
3	(3) MACHINES ON PREMISES LICENSED TO SELL ALCOHOLIC
4	BEVERAGES FOR CONSUMPTION ON THE PREMISES MUST BE PLACED IN
5	THE ROOM, AREA, OR OTHER PART OF THE PREMISES IN WHICH THE
6	ALCOHOLIC BEVERAGES ARE SOLD AND NORMALLY CONSUMED."
7	Section 46. Section 23-5-611, MCA, is amended to read:
8	"23-5-611. State-license Machine permit qualifications
9	limitationsright-to-hearing. (1) {a}-A-person-who-has
10	beengranteda-license-under-16-4-401(2)-to-sell-alcoholic
11	beverages-for-consumption-on-the-premises-may-begranteda
12	licensefortheplacement-of-video-draw-poker-machines-in
13	his-licensed-establishment: Only-a (A) A person who has been
14	granted an operator's license under [section 11] and a
15	license under16-4-401(2) to sell alcoholic beverages for
16	CONSUMPTION ON the premises OR-WHO-OPERATES-AN-ESTABLISHMENT
17	POR-THE-PRINCIPAL-PURPOSE-OP-GAMING-AND-HAS-BEEN-GRANTEDAN
18	OPERATOR'SLICENSEUNDER[SECTION11] may be granted a
19	permit for the placement of video gambling machines in his
20	premises.
21	<u>tB)APERSONWHOHASBEENGRANTEDANOPERATOR'S</u>
22	LICENSE-UNDER-{SECTION-11}-AND-IS-NOT-ENTITLED-TOAPERMIT
23	UNDERSUBSECTION -(1)(A)MAYBEGRANTED-A-PERMIT-POR-THE
24	PLACEMENT-OF-UP-TO-TWO-VIDEO-KENO-OR-BINGO-GAMBLING-MACHINES
25	IN-HIS-PREMISES-IP-THE-PREMISES-HAVE BEEN-SICENSED-FORTHE

1	SALEOFPOOD7CIGAREPPES7-OR-ANY-OPHER-CONSUMABLE-PRODUCT
2	OTHER-THAN-LIQUOR-OR-BEERIF-ONLY-ONEMACHINEISALLOWED
3	UNDERSUBSECTION-(1)(C),-ONE-MORE-MAY-BE-ALLOWED-UNDER-THIS
4	SUBSECTION-(B)-
5	(C) IF VIDEO KENO OR BINGO GAMBLING MACHINES WERE
6	LEGALLY OPERATED ON A PREMISES ON JANUARY 15, 1989, AND THE
7	PREMISES WERE NOT ON THAT DATE LICENSED UNBER-16-4-401+27 TO
8	SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES OR
9	OPERATED FOR THE PRINCIPAL PURPOSE OF GAMING AND THERE IS AN
10	OPERATOR'S LICENSE FOR THE PREMISES UNDER [SECTION 11], A
11	PERMIT FOR THE SAME NUMBER OF VIDEO KENO OR BINGO GAMBLING
12	MACHINES AS WERE OPERATED ON THE PREMISES ON THAT DATE MAY
13	BE GRANTED TO THE PERSON WHO HELD THE PERMIT FOR SUCH
14	MACHINES ON THOSE PREMISES ON THAT DATE?-TO-AN-ANCESTOR,
15	BESCENDANT,-SIBLING,-OR-SPOUSE-OF-THAT-PERSON,ORTOA
16	PERSONWHOPURCHASES-OR-LEASES-THE-BUSINESS-THAT-IS-ON-THE
17	PREMISES IF-THE-BUSINESS-IS-MOVED-TO-ANOTHER-PREMISES THE
18	PERMITEE-REMAINS-ELIGIBLE-POR-THE-SAME-NUMBER-OP-PERMITS.
19	(D) (C) A PERSON WHO LEGALLY OPERATED AN ESTABLISHMENT
20	ON JANUARY-1 JANUARY 15, 1989, FOR THE PRINCIPAL PURPOSE OF
21	GAMING AND HAS BEEN GRANTED AN OPERATOR'S LICENSE UNDER
22	[SECTION 11] MAY BE GRANTED A PERMIT FOR THE PLACEMENT OF
23	BINGO AND KENO MACHINES IN HIS PREMISES.
24	(b)Bachapplicantforalicenseshallonthe
25	applicationformdisclosetothe-department-any-previous

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1	experienceorinvolvementasanowneroroperatorof
2	gambling-devices-and-establishmentsPrevious-experienceor
3	involvement-includes:
4	<pre>titcontrollingofgamblingdevicesas-an-owner-or</pre>
5	operator;
6	(ii)-employment-with-the-owner-or-operator-ofgambling
7	devices;
8	(iii)-employmentinestablishmentswhere-gambling-is
9	offered-to-the-public;-and
10	(iv)-conviction-of-violation-of-state-or-local-gambling
11	laws-in-any-jurisdiction.
12	(2) An applicant for a permit shall disclose on the
13	application form to the department any information required
14	by the department consistent with the provisions of [section
15	10].
16	(2)[3] A licensee may not have on the premises or make
17	available for play on the premises ofhislicensed
18	establishment more than five 20 10KENOANDBINGO 20
19	machines <u>of any combination</u> that are legal under this part
20	AND NO MORE THAN 10 MAY BE DRAW POKER MACHINES. In-the
21	jurisdiction-of-alocalgovernmentwherevideogambling
22	machinesareplayed;-the-local-government-may-by-ordinance
23	or-resolution-limit-the-number-of-video-gambling-machines-to
24	no-less-than-five-per-operator-premises- IN-THE-JURISBICTION
25	OP-A-LOCAL-GOVERNMENTWHEREVIDEOGAMBLINGMACHINESARE

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1 PLAYED7--THE-LOCAL-GOVERNMENT-MAY-BY-ORDINANCE-OR-RESOLUTION 2 LIMIT-THE-NUMBER-OF-VIDEO-GAMBLING-MACHINES-TO-NO-LESS--THAN 3 PIVE--PER-OPERATOR-PREMISES-AND-NO-MORE-THAN-ALLOWED-BY-THIS SECTION: 4 5 (3)--A-person-denied-a-state-license-has-the-right-to-a 6 hearing-before-the-department:-The-hearing-must-be-conducted 7 in--accordance--with---the---provisions---of---the---Montana 8 Administrative-Procedure-Act-" Section 47. Section 23-5-612, MCA, is amended to read: 9 10 "23-5-612. State--license Machine permits -- fee -used-keno-machines. (1) (a) The department, upon payment of 11 12 the fee provided in subsection (+)(+)(+) (2) and in conformance with rules adopted under 23-5-605 this part, shall issue to 13 14 the licensee operator a license permit for each AN APPROVED 15 video draw-poker-or-keno gambling machine. 16 (b)(2) The department shall charge an annual license 17 permit fee of \$100 \$200 for each video draw--poker--machine and---\$100--for--each--keno gambling machine PERMIT. The 18 19 department shall retain \$100 of the total license permit fee 20 collected for purposes of administering this partz--except 21 23-5-615. The remaining \$100 must be returned on a quarterly 22 basis to the local government jurisdiction in which the 23 gambling machine is located. THE LOCAL GOVERNMENT PORTION OF 24

24 THE FEE IS STATUTORILY APPROPRIATED TO THE DEPARTMENT, AS
 25 PROVIDED IN 17-7-502, FOR DEPOSIT IN THE LOCAL GOVERNMENT

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for use in this the state before the video draw-poker TREASURY. 1 1 2 gambling machine or associated equipment is sold, played, or 2 (3) The license permit expires on June 30 of each 3 used. 3 year, and the fee may not be prorated. (2) A video draw-poker gambling machine or associated 4 (2)--A---used---keno--machine--may--be--licensed--under 4 equipment may not be examined or approved by the department 5 5 subsection-fll-without-meeting-the-requirements-of--23-5-609 6 until the video gambling machine manufacturer-distributor of 6 if---the--applicant--for--licensure--can--establish--to--the 7 the-machine-or-associated-equipment is licensed as required 7 satisfaction--of--the--department--that,--on--the--date---of in 23-5-625. 8 8 application---he--owns-or-possesses-a-machine-that-was-owned (3) All video gambling machines approved by the 9 9 or-operated-in-the-state-prior-to-June-307-1907---A--license department of commerce prior to [the effective date of this 10 10 issued--under--this--subsection--expires-for-all-purposes-no act] must be considered approved under this part. 11 11 later-than-June-30--1989-12 (+3)(4) The department shall require 12 (4) A USED KENO MACHINE MAY BE LICENSED UNDER manufacturer-distributor seeking the examination 13 SUBSECTION (1) WITHOUT MEETING THE REQUIREMENTS OF 23-5-609 13 approval of a new video draw--poker gambling machine or 14 IF THE APPLICANT FOR LICENSURE CAN ESTABLISH TO THE 14 associated equipment to pay the anticipated actual costs of 15 15 SATISFACTION OF THE DEPARTMENT THAT, ON THE DATE OF the examination in advance and, after the completion of the 16 APPLICATION, HE OWNS OR POSSESSES A MACHINE THAT WAS OWNED 16 examination, shall refund overpayments or charge and collect 17 17 OR OPERATED IN THE STATE PRIOR TO JUNE 30, 1987. A LICENSE amounts sufficient to reimburse the department for 18 ISSUED UNDER THIS SUBSECTION EXPIRES FOR ALL PURPOSES NO 18 19 underpayments of actual costs. LATER THAN JUNE 30, 1989." 19 (5) The department may inspect and test and approve, 20 20 Section 48. Section 23-5-631, MCA, is amended to read: 21 disapprove, or place a condition upon a video gambling 21 *23-5-631. Examination and approval of new video draw machine prior to its distribution and placement for play by 22 poker gambling machines and associated equipment -- fee. (1) 22 23 the public." The department shall examine and may approve a new video 23

> 24 NEW SECTION. Section 49. Video gambling machine specifications -- rules. The department shall adopt rules 25

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draw---poker---machines gambling machine and associated

equipment which is are manufactured, sold, or distributed

24

25

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the

and

describing the video gambling machines authorized by this 1 part and stating the specifications for video gambling 2 machines authorized by this part. THE SPECIFICATIONS IN THE 3 RULES MUST SUBSTANTIALLY FOLLOW THE SPECIFICATIONS CONTAINED Δ IN 23-5-606 AND 23-5-609 AS THOSE SECTIONS READ ON SEPTEMBER 5 30. 1989. THE DEPARTMENT SHALL ADOPT RULES ALLOWING VIDEO 6 GAMBLING MACHINES TO BE IMPORTED INTO THIS STATE AND USED 7 FOR THE PURPOSES OF TRADE SHOWS, EXHIBITIONS, AND SIMILAR 8 9 ACTIVITIES.

Section 50. Section 23-5-616, MCA, is amended to read: 10 "23-5-616. Removal of machine from public access. If a 11 machine fails to meet the specifications and requirements of 12 23-5-6067-23-5-6077-0r-23-5-600 this part or any rule of the 13 department WHICH SPECIFICATION OR REQUIREMENT EXISTED AT THE 14 15 TIME THE MACHINE WAS APPROVED at any time after its initial licensure permit has been issued, the licensee operator 16 17 shall immediately remove the machine from public access until it meets all requirements." 18

Section 51. Section 23-5-625, MCA, is amended to read: 19 20 *23-5-625. Manufacturer-distributor--of---video---draw gambling machine 21 poker----machines Video manufacturer-distributor -- license -- fees. (1) It is 22 23 unlawful for any person to assemble, produce, manufacture, 24 sell;-or-distribute OR supply;--or--repair any video draw poker gambling machine or associated equipment for use or 25

play in this the state without having first been issued a
 video gambling machine manufacturer-distributor's license by
 the department.

4 (2) The department shall charge an annual license fee 5 of \$1,000 for the issuance or renewal of a <u>video gambling</u> 6 machine manufacturer-distributor's license.

7 (3) In addition to other license fees, the department 8 may charge the applicant a one-time <u>video_gambling_machine</u> 9 manufacturer-distributor's license application processing 10 fee. The processing fee may not exceed the department's 11 actual costs for processing an application.

12(4) Allvideogamblingmachine13manufacturer-distributor's licenses expireonJune30of14each 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-23-5-645 unless otherwise provided."

Section 52. Section 23-5-610, MCA, is amended to read: 18 "23-5-610. Video draw-poker-and-keno gambling machine 19 net income tax -- records -- distribution -- quarterly 20 statement and payment. (1) Each A licensee AN OPERATOR 21 ISSUED A PERMIT UNDER THIS PART shall pay to the department 22 a video draw-poker-and-keno gambling machine tax of 15% of 23 net machine income from each video draw-poker-and-keno 24 gambling machine licensed under this part. 25

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an ha mar hannan baraha hasar waanna pekan meendaa markeke mara da keesa keesa markeka da keesa hadan hadan hada

25

1 (2) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER 2 THIS PART shall keep a record of net machine income in such 3 form as the department may require. The records must at all 4 times during the business hours of the licensee be subject 5 to inspection by the department -- its-agents -- or -- employees. (3) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER 6 7 THIS PART shall, within 15 days after the end of each 8 quarter, complete and deliver to the department a statement 9 showing the total net machine income from each video draw 10 poker--and--keno gambling machine licensed to him, together 11 with the total amount due the state as video draw-poker--and 12 keno gambling machine net income tax for the preceding 13 quarter. The statement must contain such other relevant

14 information as the department may require.

15 (4) (a) The department must--deposit shall forward
16 one-third of the tax collected under subsection (3) in to
17 the general fund.

18 (b) The department must shall forward the remaining 19 two-thirds of the tax collected under subsection (3) to the treasurer of the incorporated county or the clerk, finance 20 21 officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county or 22 23 municipal treasury. Counties are not entitled to proceeds 24 from taxes on income from video draw-poker-and-keno gambling 25 machines located in incorporated cities and towns. The

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two-thirds local government portion of tax collected under 1 subsection (3) is statutorily appropriated to the department 2 as provided in 17-7-502 for deposit to the county or 3 municipal treasury." 4 Section 53. Section 23-5-608, MCA, is amended to read: 5 *23-5-608. Limitation on amount of money played and 6 value of prizes -- payment of credits in cash. (1) A video 7 draw-poker-or-keno gambling machine may not allow more than 8 \$2 to be played on a game or award free games or credits in 9 excess of the value-of-\$100-per-hand following amounts: 10 (a) \$100 a-hand-or-\$800 \$800 \$100 a game for a video 11 12 draw poker machine; and (b) \$800 a game for a video keno or bingo machine. 13 (2) Each A licensee shall pay in cash all credits owed 14 to a player as shown on a valid ticket voucher provided-in 15 23-5-686+4++k+." 16 Section 54. Section 23-5-607, MCA, is amended to read: 17 "23-5-607. Expected payback -- verification. The 18 department shall prescribe the expected payback value of one 19 credit played awarded to be at least 80% of the value of a 20 one credit played. Each video draw-poker-or--keno gambling 21 machine must have an electronic accounting device that the 22 department may use to verify the winning percentage. The 23

24 department--may--not-publish-or-otherwise-disseminate-income

figures--and--other--statistics--obtained--in--the---payback

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verification--process--or--contained-in-payback-verification
reports-in-a--manner--that--allows--or--helps--a--person--to
identify--a--particular--machine--or--to--match-a-particular
machine-with-a-particular-income-or-statistic."

12 (2)--A--violation--of--this--section--is--a-misdemeanor
13 punishable-under-fsection-23)- HOWEVER, IN THE JURISDICTION
14 OF A LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL
15 GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2
16 A.M. AND B A.M.

17 Section 56. Section 23-5-613, MCA, is amended to read: 18 *23-5-613. Investigations--and--violations Violations. (1)---The---department---or---duly---authorized---department 19 20 representatives-shall-make-necessary-investigations,-suspend 21 or-revoke-state-licenses-for-violations-of-this-part,-except 22 23-5-6157--and--hold-hearings-on-such-matters--A-license-may 23 be-suspended-prior-to-a-hearing-upon-a-finding-of-danger--to 24 public--health--and-welfare-but-may-not-be-revoked-until-the 25 hearing-is-completed-

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1	(2)A Unless otherwise provided in this part, A PERSON
2	WHO PURPOSELY OR KNOWINGLY VIOLATES OR PROCURES, AIDS, OR
3	ABETS a violation of this part;-except-23-5-615; or-a-rule
4	promulgated under23-5-605 <u>bythedepartment</u> <u>OR AN</u>
5	ORDINANCE, RESOLUTION, OR RULE ADOPTED UNDER THIS PART is
6	GUILTY OF a criminal-offenseandafinenottoexceed
7	\$107000-for-the-first-violation-and-\$157000-for-a-subsequent
8	violationmustbeimposed misdemeanor punishable under
9	[section 23].
10	(3)If-a-videodrawpokermachineisoperatedin
11	violationofthispart;-except-23-5-615;-it-may-be-seized
12	under-23-5-121-and-the-provisions-of-23-5-122-apply;
13	<pre>(4)Employees-of-thedepartmentordulyauthorized</pre>
14	departmentrepresentatives-designated-as-enforcement-agents
15	may-investigate-the-background-of-license-applicants-tothe
16	extent-judged-necessary-by-the-department7-but-no-person-may
17	beinvestigatedpriorto-his-submission-of-an-application
18	for-a-license.
19	(5){a}-Findings-of-suspected-illegal-activity-must-be
20	reported-to-the-appropriate-law-enforcement-agency-
21	{b}The-clerk-of-the-court-shall;-upon-finaljudgment
22	ofconvictionofa-licensee7-report-to-the-department-the
23	name-of-the-licensee-convicted-of-violating-a-local-gambling
24	ordinance.
25	<pre>tc}On-receipt-ofsuchreport,thedepartmentmay</pre>

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commence-~proceedings-~to--revoke--or-suspend-the-licensee's 1 2 video-draw-poker-license-3 (6)--Any-peace-officer--of--this--state--may--arrest--a 4 person--for--tampering--with--a--video--draw--poker-machine; 5 attempting-or-conspiring-to-manipulate-the--outcome--or--the 6 payoff--of--a--video-draw-poker-machinez-or-manipulating-the 7 outcome-or-payoff-of-a-video-draw-poker-machine-by--physical tampering--or-other-interference-with-the-proper-functioning 8 9 of-the-machine-" 10 NEW SECTION. Section 57. Tampering with OF.

11 manipulating video gambling machine -- penalty. (1) It-is-a 12 feiony-to <u>A PERSON COMMITS THE OFFENSE OF TAMPERING WITH A</u> 13 <u>VIDEO GAMBLING MACHINE IF HE PURPOSELY OR KNOWINGLY</u> 14 manipulate <u>MANIPULATES</u> or attempt <u>ATTEMPTS</u> or conspire 15 <u>CONSPIRES</u> to manipulate the outcome or payoff of a video 16 gambling machine by physical tampering or other interference 17 with the proper functioning of the machine.

18 (2) A violation of this section is a felony and must19 be punished in accordance with [section 24].

Section 58. Section 23-5-503, MCA, is amended to read: "23-5-503. Rules. (1) The card used for recording the pool and upon which the squares or spaces appear shall clearly state indicate in advance of the sale of any chances the number of chances to be sold in that specific pool, the name of the event, the consideration to be paid for each

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1 chance, and the total amount to be paid to the winners.

2 (2) No A chance to participate in a sports pool may З not be sold other than upon the premises in which the sports 4 pool is conducted. No An individual chance to participate in a sports pool shall may not be sold for a consideration in 5 6 excess of \$1 \$10 \$1 \$5, and the total amount to be paid to 7 the winners of any individual sports pool shall may not 8 exceed the value of \$100 \$500. The winner of any sports pool 9 shall receive a 100% payout of the value of the sports pool." 10

Section 59. Section 23-5-509, MCA, is amended to read: 11 12 "23-5-509. Penalty. Every A person who willfully purposely or knowingly violates or who procures, aids, or 13 abets in the-willful a violation of this part shall--be 14 15 deemed is guilty of a misdemeanor and-upon-conviction-shall 16 be--punished--by--a--fine--of--not--more--than---\$17000---or 17 imprisonment--in-the-county-jail-for-not-more-than-3-months; or-both punishable pursuant to [section 23]." 18

19 Section 60. Section 23-5-1101, MCA, is amended to 20 read:

21 "23-5-1101. Definition. As used in this part, 22 "Calcutta pool" means a form of auction pool in--which 23 persons--bid--or-wager-money;-with-winnings-awarded-based-on 24 the-outcome--of--an--event;--except--that conducted by an 25 organization gualified---for--exemption--under--26--U;5:6;

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1	501(c)(3)-or-(c)(4)-and authorized by the department. The
2	Calcutta pool must be an auction pool in which:
3	(1) a person's wager is equal to his bid;
4	<u>{2}the-organization-conducting-the-pool-has-no-direct</u>
5	interest-in-the-pool;
6	(2) THE PROCEEDS FROM THE POOL, MINUS ADMINISTRATIVE
7	COSTS AND PRIZES PAID, ARE CONTRIBUTED TO A CHARITABLE OR
8	NONPROFIT CORPORATION, ASSOCIATION, OR CAUSE;
9	(3) the rules of the pool are publicly posted;
10	(4) no more than one wager for each competitor is
11	allowed;
12	(5) at least 50% of the total pool is paid out in
13	prizes;
14	(6) persons may not bid or wager money on any
15	elementary school or high school sports event; and
16	(7) the underlying event has more than two entrants."
17	Section 61. Section 23-5-1105, MCA, is amended to
18	read:
19	"23-5-1105. Penalty. Any <u>A</u> person who violates a
20	provision of this part is guilty of a misdemeanor and-upon
21	conviction-shall-be-fined-not-more-than-\$17000-or-imprisoned
22	in-the-county-jail-for-a-term-not-toexceed3monthsor
23	both punishable pursuant to [section 23]."
24	Section-63Section-17-7-502,-MCA,-is-amended-to-read-
25	417-7-502Statutoryappropriationsdefinition

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1	requisites-for-validity(1)-A-statutoryappropriationis
2	anappropriationmadebypermanentlawthat-authorizes
3	spending-by-a-state-agency-without-the-need-forabiennial
4	legislative-appropriation-or-budget-amendment-
5	<pre>t2}Exceptasprovidedinsubsectiont4);tobe</pre>
6	effective;-a-statutory-appropriation-must-complywithboth
7	of-the-following-provisions:
8	{a}The-law-containing-the-statutory-authority-must-be
9	listed-in-subsection-(3)+
10	(b)Thelawor-portion-of-the-law-making-a-statutory
11	appropriationmustspecificallystatethatastatutory
12	appropriation-is-made-as-provided-in-this-section-
13	(3) Thefollowinglawsare-the-only-laws-containing
14	statutoryappropriations:2-9-202;2-17-105;2-18-812;
15	10-3-203;10-3-312;10-3-314;10-4-301;13 -37-304;
16	15-26-123;15-31-702;15-36-112;15-65-121;15-70-101;
17	16-1-404;16-1-410;-16-1-411;-17-3-212;-17-5-404;-17-5-424;
18	17-5-804;19-8-504;19-9-702;19-9-1007;19-10-205;
19	£9-10-305;19-10-506;19-11-512;19-11-513;19-11-606;
20	19-12-301;19-13-604;20-4-109;20-6-406;20-8-111;
21	23-5-610; {section-29};-{section-39};-23-5-1027;-33-31-212;
22	33-31-401;37-51-501;39-71-2504;53-6-150;53-24-206;
23	67-3-205;75-1-1101;75-7-305;76-12-123;80-2-103;
24	80-2-228;-82-11-136;-90-3-301;-90-3-302;-90-3-412;-90-4-215;
25	90-9-306;-90-15-103;-section-13;-House-Bill-No;-861;-baws-of

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1	1985;-and-section-1;-Chapter-454;-baws-of-1987;
2	<pre>f4)There-is-astatutoryappropriationtopaythe</pre>
3	principal,-interest,-premiums,-and-costs-of-issuing,-paying,
4	and-securing-all-bonds7-notes7-or-other-obligations7-as-due7
5	that-have-been-authorized-and-issued-pursuant-to-the-laws-of
6	MontanaAgenciesthathaveenteredintoagreements
7	authorizedbythelawsofMontanatopaythestate
8	treasurer,fordeposit-in-accordance-with-17-2-101-through
9	17-2-107;-as-determined-by-the-statetreasurer;anamount
10	sufficienttopay-the-principal-and-interest-as-due-on-the
11	bonds-or-notes-have-statutoryappropriationauthorityfor
12	<pre>such-payments:fin-subsection-(3):-pursuant-to-sec:-15;-Ch;</pre>
13	6077-Бт-19077-the-inclusion-of-15-65-121-terminates-June-307
14	1989;pursuantto-sec:-10;-Ch:-664;-b:-1987;-the-inclusion
15	of-39-71-2504-terminates-June-307-19917-and-pursuant-to-sect
16	67-Ch4547-b19877-the-inclusion-of-sec17Ch4547b-
17	1987;-terminates-July-1;-1988;)"

18 SECTION 62. SECTION 17-7-502, MCA, IS AMENDED TO READ: 19 "17-7-502. Statutory appropriations -- definition --20 requisites for validity. (1) A statutory appropriation is an 21 appropriation made by permanent law that authorizes spending 22 by a state agency without the need for a biennial 23 legislative appropriation or budget amendment.

24 (2) Except as provided in subsection (4), to be25 effective, a statutory appropriation must comply with both

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1 of the following provisions:

2 (a) The law containing the statutory authority must be3 listed in subsection (3).

4 (b) The law or portion of the law making a statutory 5 appropriation must specifically state that a statutory 6 appropriation is made as provided in this section.

(3) The following laws are the only laws containing 7 statutory appropriations: 2-9-202; 2-17-105; 2-18-812; ß 10-3-203: 10-4-301; 13-37-304; 9 10-3-312; 10-3-314; 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101: 10 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 11 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 12 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 13 20-8-111; 14 19-12-301; 19-13-604; 20-4-109; 20-6-406; 23-5-610; 23-5-612; [section 29]; [section 38]; 23-5-1027; 15 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 16 17 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123: 80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 18 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No. 19 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987. 20 (4) There is a statutory appropriation to pay the 21 principal, interest, premiums, and costs of issuing, paying, 22 and securing all bonds, notes, or other obligations, as due, 23 that have been authorized and issued pursuant to the laws of 24 Montana. Agencies that have entered into agreements 25

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1 authorized by the laws of Montana to pay the state 2 treasurer, for deposit in accordance with 17-2-101 through 3 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the 4 5 bonds or notes have statutory appropriation authority for 6 such payments. (In subsection (3): pursuant to sec. 15, Ch. 7 607, L. 1987, the inclusion of 15-65-121 terminates June 30, 8 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991; and pursuant to sec. 9 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L. 10 11 1987, terminates July 1, 1988.)"

 12
 NEW SECTION.
 SECTION 63.
 EXEMPTION
 FROM
 SUNRISE

 13
 PROVISIONS.
 THE
 PROVISIONS
 OF TITLE 2, CHAPTER 8, PART 2,

 14
 AND 5-4-207 DO NOT APPLY TO [THIS ACT].
 Image: Section.
 SECTION 64.
 GAMING ADVISORY
 COUNCIL --

 15
 NEW SECTION.
 SECTION 64.
 GAMING ADVISORY
 COUNCIL --

 16
 ALLOCATION
 - COMPOSITION
 - COMPENSATION
 -

17 (1) THERE IS A GAMING ADVISORY COUNCIL.

18 (2) THE GAMING ADVISORY COUNCIL IS ALLOCATED TO THE
 19 DEPARTMENT FOR ADMINISTRATIVE PURPOSES ONLY AS PRESCRIBED IN
 20 2-15-121.

 21
 (3) THE GAMING ADVISORY COUNCIL CONSISTS OF NINE

 22
 MEMBERS. ONE MEMBER MUST BE FROM THE SENATE, AND ONE MEMBER

 23
 MUST BE FROM THE HOUSE OF REPRESENTATIVES. THE SENATE

 24
 COMMITTEE ON COMMITTEES AND THE SPEAKER OF THE HOUSE OF

 25
 REPRESENTATIVES SHALL APPOINT THE LEGISLATIVE MEMBERS OF THE

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COUNCIL. THE SEVEN REMAINING MEMBERS MUST BE APPOINTED BY 1 THE DEPARTMENT, WITH TWO ONE REPRESENTING THE PUBLIC AT 2 3 LARGE, TWO REPRESENTING LOCAL GOVERNMENTS, ONE BEING A NATIVE AMERICAN, AND THREE REPRESENTING THE GAMING INDUSTRY. 4 (4) EACH GAMING ADVISORY COUNCIL MEMBER IS APPOINTED 5 TO A 2-YEAR 3-YEAR TERM OF OFFICE, EXCEPT THAT THREE OF THE 6 FIRST-APPOINTED ORIGINAL MEMBERS SHALL SERVE A 1-YEAR TERM, 7 8 THREE (INCLUDING BOTH LEGISLATIVE MEMBERS) SHALL SERVE A 2-YEAR TERM, AND THREE SHALL SERVE A 3-YEAR TERM. A MEMBER 9 OF THE COUNCIL MAY BE REMOVED FOR GOOD CAUSE BY THE 10 APPOINTING BODY PROVIDED FOR IN SUBSECTION (3). 11 (5) THE GAMING ADVISORY COUNCIL SHALL APPOINT A 12 CHAIRMAN FROM ITS MEMBERS. 13 14 (6) LEGISLATIVE MEMBERS OF THE GAMING ADVISORY COUNCIL 15 ARE ENTITLED TO COMPENSATION AND EXPENSES, AS PROVIDED IN 5-2-302, WHILE THE COUNCIL IS MEETING. THE REMAINING MEMBERS 16 ARE ENTITLED TO TRAVEL, MEALS, AND LODGING EXPENSES AS 17 18 PROVIDED FOR IN 2-18-501 THROUGH 2-18-503. EXPENSES OF THE COUNCIL MUST BE PAID FROM LICENSING FEES RECEIVED BY THE 19 20 DEPARTMENT. (7) THE GAMING ADVISORY COUNCIL SHALL, WITHIN ITS 21 AUTHORIZED BUDGET, HOLD MEETINGS AND INCUR EXPENSES AS IT 22 23 CONSIDERS NECESSARY TO STUDY ALL ASPECTS OF GAMBLING IN THE 24 STATE. (8) (A) THE GAMING ADVISORY COUNCIL SHALL SUBMIT AN 25

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and the second of the second second

1	ANNUAL REPORT TO THE DEPARTMENT, AT A TIME DESIGNATED BY THE
2	DEPARTMENT, WITH RECOMMENDATIONS FOR AMENDMENTS TO THE
3	GAMBLING STATUTES, THE NEED FOR ADDITIONAL OR MODIFIED
4	DEPARTMENT RULES, THE CLARIFICATION OF EXISTING RULES, AND
5	OTHER RECOMMENDATIONS ON THE OPERATION OF THE DEPARTMENT OR
6	ANY OTHER GAMBLING-RELATED MATTER.
7	(B) THE ANNUAL REPORT REQUIRED UNDER SUBSECTION (8)(A)
8	MUST BE AFFIXED TO THE ANNUAL DEPARTMENT REPORT ON GAMBLING
9	IN THE STATE. THE DEPARTMENT AND COUNCIL SHALL SUBMIT THE
10	TWO MOST RECENT DEPARTMENT AND COUNCIL REPORTS TO EACH OF
11	THE NEXT TWO REGULAR SESSIONS OF THE LEGISLATURE.
12	(C) THE COUNCIL MAY SUBMIT INTERIM REPORTS TO THE
13	DEPARTMENT AS THE COUNCIL CONSIDERS NECESSARY.
14	(D) THE COUNCIL SHALL MEET WITH THE DEPARTMENT UPON
15	REQUEST OF THE DEPARTMENT.
16	(E) THE DEPARTMENT SHALL MEET WITH THE COUNCIL UPON
17	REQUEST OF THE COUNCIL.
18	(9) THE DEPARTMENT SHALL GIVE EACH COUNCIL MEMBER
19	NOTICE AND A COPY OF EACH PROPOSED CHANGE IN ADMINISTRATIVE
20	RULES RELATING TO GAMBLING, THE NOTICE AND COPY MUST BE
21	GIVEN AT THE TIME A NOTICE OF PROPOSED RULES CHANGES IS
22	FILED WITH THE SECRETARY OF STATE. THE COUNCIL SHALL REVIEW
23	THE PROPOSAL, MAY COMMENT ON IT, AND MAY ATTEND ANY HEARING
24	ON THE PROPOSAL. THE DEPARTMENT SHALL CONSIDER ANY COMMENT
25	BY ANY COUNCIL MEMBER OR BY THE COUNCIL AS A WHOLE PRIOR TO

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an extension of the constant states of

1	ADOPTING THE PROPOSED CHANGE.
2	NEW SECTION. SECTION 65. CONSTRUCTION. IN VIEW OF
3	ARTICLE III, SECTION 9, OF THE MONTANA CONSTITUTION, (THIS
4	ACT MUST BE STRICTLY CONSTRUED BY THE DEPARTMENT AND THE
5	COURTS TO ALLOW ONLY THOSE TYPES OF GAMBLING AND GAMBLING
6	ACTIVITY THAT ARE SPECIFICALLY AND CLEARLY ALLOWED BY (THIS
7	ACT].
8	NEW SECTION. Section 66. Reorganization procedure.
9	The provisions of sections 2-15-131 through 2-15-137 govern
10	the transfer of the various functions contained in [this
11	act] from the department of commerce AND THE DEPARTMENT OF
12	REVENUE to the department of justice.
13	NEW SECTION. Section 67. Implementation. (1) The
14	governor shall by executive order implement the provisions
15	of [this act].
16	(2) The governor may by executive order assign to the
17	department of justice in a manner consistent with [this act]
18	functions allocated to the department of commerce AND THE
19	DEPARTMENT OF REVENUE by the 51st legislature relating to
20	the implementation of Title 23, chapter 5, parts 1 through
21	6, that are not transferred by [this act].
22	NEW SECTION. Section 68. Repealer. Sections 23-5-105
23	through 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124
24	through 23-5-127, 23-5-132 through 23-5-134, 23-5-141
25	through 23-5-144, 23-5-201 through 23-5-211, 23-5-301

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1 through 23-5-303, 23-5-314 through 23-5-316, 23-5-322, 2 23-5-323, 23-5-332, 23-5-401 through 23-5-403, 23-5-411, 23-5-415 through 23-5-418, 23-5-421 through 23-5-423, 3 23-5-504 through 23-5-508, 23-5-510, 23-5-511, 23-5-601, 4 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618, 5 23-5-627, 23-5-635, 23-5-636, 23-5-1103, 6 23-5-626, 7 23-5-1104, MCA, are repealed.

8 NEW SECTION. SECTION 69. PRORATION OF CERTAIN FEES. 9 A FEE IMPOSED UNDER 23-5-321, 23-5-421, 23-5-612, 23-5-625, 10 OR 23-5-631 BETWEEN [THE EFFECTIVE DATE OF THIS SECTION] AND 11 OCTOBER 1, 1989, MUST BE PRORATED TO COVER ONLY THE PERIOD 12 BETWEEN THE DATE THE PERMIT OR LICENSE TAKES EFFECT AND 13 OCTOBER 1, 1989.

 14
 NEW SECTION.
 SECTION 70.
 APPROPRIATION.
 THE

 15
 FOLLOWING APPROPRIATION IS MADE FROM A STATE SPECIAL REVENUE
 16
 ACCOUNT TO THE DEPARTMENT OF JUSTICE FOR THE PURPOSE OF

 17
 IMPLEMENTING [THIS ACT] AND ADMINISTERING CHAPTER 5 OF TITLE
 18
 23:

19	FISCAL YEAR BEGINNING JULY 1, 1989	\$527,081
20	FISCAL YEAR BEGINNING JULY 1, 1990	\$449,081

21 <u>NEW SECTION.</u> Section 71. Extension of authority. Any 22 existing authority to make rules on the subject of the 23 provisions of [this act] is extended to the provisions of 24 [this act].

25 NEW SECTION. Section 72. Codification instruction.

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1 (1) [Sections 1, 2, 4 through 8, 10 through 12, 16, 18 2 through 20, and 23 through 25] are intended to be codified 3 as an integral part of Title 23, chapter 5, part 1, and the 4 provisions of Title 23, chapter 5, part 1, apply to 5 [sections 1, 2, 4 through 8, 10 through 12, 16, 18 through 6 20, and 23 through 25].

7 (2) [Sections 27 through 29 and 32] are intended to be
8 codified as an integral part of Title 23, chapter 5, part 3,
9 and the provisions of Title 23, chapter 5, part 3, apply to
10 [sections 27 through 29 and 32].

11 (3) [Sections 35 through 39 <u>38</u> and 43 <u>42</u>] are intended 12 to be codified as an integral part of Title 23, chapter 5, 13 part 4, and the provisions of Title 23, chapter 5, part 4, 14 apply to [sections 35 through 39 38 and 43 42].

(4) [Sections 50 49, 56 55, and 50 57] are intended to
be codified as an integral part of Title 23, chapter 5, part
6, and the provisions of Title 23, chapter 5, part 6, apply
to [sections 50 49, 56 55, and 58 57].

19 (5) The code commissioner shall recodify the
20 provisions of Title 23, chapter 5, part 11, as an integral
21 part of Title 23, chapter 5, part 2.

22 (6) [SECTION 64] IS INTENDED TO BE CODIFIED AS AN
23 INTEGRAL PART OF TITLE 2, CHAPTER 15, PART 20, AND THE
24 PROVISIONS OF TITLE 2, CHAPTER 15, APPLY TO [SECTION 64].

25 NEW SECTION. SECTION 73. COORDINATION INSTRUCTION.

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(1) THE REFERENCE COPY OF HOUSE BILL NO. 576 OF THE 51ST 1 2 LEGISLATURE IS AMENDED TO INSERT, ON PAGE 2, LINE 9, AFTER 3 "23-5-609(4)(L)", THE PHRASE ", AS THAT SECTION READ ON 4 SEPTEMBER 30, 1989". (2) THE REFERENCE COPY OF HOUSE BILL NO. 251 OF THE 5 51ST LEGISLATURE IS AMENDED TO CHANGE "LICENSE" TO "PERMIT" 6 ON PAGE 2, LINES 2 AND 13. 7 (3) THE REFERENCE COPY OF HOUSE BILL NO. 448 OF THE 8 51ST LEGISLATURE IS AMENDED TO DELETE THE AMENDMENTS MADE TO 9 23-5-104(1). SUBSECTION (1) OF 23-5-104 AND THE FIRST 10 11 SENTENCE OF 23-5-104(2) ARE DELETED, AS PROVIDED IN [SECTION 22], AND THE AMENDMENTS TO THE REMAINDER OF 23-5-104 BY 12 13 [SECTION 22] AND HOUSE BILL NO. 448 TAKE EFFECT. NEW SECTION. Section 74. Severability. If a part of 14 15 [this act] is invalid, all valid parts that are severable 16 from the invalid part remain in effect. If a part of [this 17 act] is invalid in one or more of its applications, the part 18 remains in effect in all valid applications that are severable from the invalid applications. 19 NEW SECTION. SECTION 75. EFFECTIVE 20 DATES. (1)(SUBSECTION (2) OF SECTION 7 AND SECTIONS 63 THROUGH 67, 69, 21 22 72, 73, AND THIS SECTION] ARE EFFECTIVE ON PASSAGE AND 23 APPROVAL. (2) [SECTION 70] IS EFFECTIVE ON JULY 1, 1989. 24 25 (3) THE REMAINING SECTIONS ARE EFFECTIVE ON OCTOBER 1,

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