

HOUSE BILL NO. 411

INTRODUCED BY R. JOHNSON, YELLOWTAIL, WANZENRIED
BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE HOUSE

JANUARY 30, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 17, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 18, 1993	PRINTING REPORT.
	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 19, 1993	ENGROSSING REPORT.
FEBRUARY 20, 1993	THIRD READING, PASSED. AYES, 78; NOES, 19.
FEBRUARY 22, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 22, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 27, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 31, 1993	SECOND READING, CONCURRED IN.
APRIL 1, 1993	THIRD READING, CONCURRED IN. AYES, 47; NOES, 1.
	RETURNED TO HOUSE.

IN THE HOUSE

APRIL 2, 1993	SENT TO ENROLLING.
APRIL 13, 1993	REPORTED CORRECTLY ENROLLED.
	SIGNED BY SPEAKER.

IN THE SENATE

APRIL 14, 1993

SIGNED BY PRESIDENT.

IN THE HOUSE

APRIL 16, 1993

DELIVERED TO GOVERNOR.

APRIL 19, 1993

RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.

APRIL 22, 1993

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

IN THE SENATE

APRIL 24, 1993

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

IN THE HOUSE

APRIL 24, 1993

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *411*
 2 INTRODUCED BY *Graham* *Yellowtail* ~~*Wannabe*~~
 3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
 6 PUBLIC GAMBLING AND AMUSEMENT GAME LAWS OF MONTANA; REVISING
 7 THE COMPENSATION FOR GAMING ADVISORY COUNCIL MEMBERS;
 8 REVISING THE DEFINITIONS OF BINGO, DISTRIBUTOR, LICENSE,
 9 MANUFACTURER, AND PROMOTIONAL GAME OF CHANCE; REVISING THE
 10 METHOD FOR DISTRIBUTING FINES, PENALTIES, AND FORFEITURES;
 11 REQUIRING THE DEPARTMENT OF JUSTICE TO HAVE CLEAR AND
 12 CONVINCING EVIDENCE BEFORE ISSUING A TEMPORARY CEASE AND
 13 DESIST ORDER; STATING THE TYPES OF EVIDENCE TO BE PRESENTED
 14 DURING AN ADMINISTRATIVE PROCEEDING; DEFINING CONDITIONS
 15 UNDER WHICH AN ILLEGAL GAMBLING DEVICE MAY BE BROUGHT INTO
 16 THE STATE FOR EXPORT PURPOSES; PROVIDING PENALTIES FOR
 17 CREDIT GAMBLING AND UNDERAGE GAMBLING VIOLATIONS; REVISING
 18 SHAKE-A-DAY PROVISIONS; CLARIFYING PROVISIONS REGARDING THE
 19 GRANTING OF CERTAIN GAMBLING PERMITS TO PERSONS WITHOUT
 20 ON-PREMISES CONSUMPTION ALCOHOLIC BEVERAGES LICENSES;
 21 REVISING CARD GAME TOURNAMENT PROVISIONS; PROVIDING THAT AN
 22 OPERATOR IS ALSO LIABLE FOR A VIOLATION INVOLVING OPERATION
 23 OF A LIVE CARD ROOM TABLE BY A LICENSED CARD ROOM
 24 CONTRACTOR; LIMITING THE PAYOUT ON CERTAIN PROMOTIONAL GAMES
 25 OF CHANCE; LIMITING SPORTS POOLS TO EVENTS INVOLVING NATURAL

1 PERSONS; CREATING A DISTRIBUTOR'S LICENSE AND A ROUTE
 2 OPERATOR'S LICENSE; DEFINING ALLOWABLE COMPENSATION FOR
 3 ROUTE OPERATORS; ALLOWING THE SALE OF VIDEO GAMBLING
 4 MACHINES BY AN OPERATOR OR LIENHOLDER; REVISING CERTAIN
 5 PROVISIONS RELATING TO VIDEO GAMBLING MACHINES; EXPANDING
 6 COURT JURISDICTION OVER GAMBLING VIOLATIONS BY YOUTHS;
 7 REVISING AMUSEMENT GAME PROVISIONS; AMENDING SECTIONS
 8 2-15-2021, 23-5-112, 23-5-123, 23-5-136, 23-5-152, 23-5-157,
 9 23-5-158, 23-5-160, 23-5-306, 23-5-312, 23-5-317, 23-5-324,
 10 23-5-412, 23-5-602, 23-5-611, 23-5-625, 23-5-631, 23-6-104,
 11 AND 41-5-203, MCA; AND PROVIDING AN APPLICABILITY
 12 PROVISION."
 13

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

15 **Section 1.** Section 2-15-2021, MCA, is amended to read:

16 "2-15-2021. Gaming advisory council -- allocation --
 17 composition -- compensation -- biennial report. (1) There is
 18 a gaming advisory council.

19 (2) The gaming advisory council is allocated to the
 20 department for administrative purposes only as prescribed in
 21 2-15-121.

22 (3) The gaming advisory council consists of nine
 23 members. One member must be from the senate, and one member
 24 must be from the house of representatives. The senate
 25 committee on committees and the speaker of the house of

representatives shall appoint the legislative members of the council. The seven remaining members must be appointed by the department, with one representing the public at large, two representing local governments, one being a Native American, and three representing the gaming industry.

(4) Each gaming advisory council member is appointed to a 3-year term of office~~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.~~ A member of the council may be removed for good cause by the appointing body provided for in subsection (3).

(5) The gaming advisory council shall appoint a chairman presiding officer from its members.

(6) ~~Legislative members~~ Members of the gaming advisory council are entitled to ~~compensation and expenses as provided in 5-2-382, while the council is meeting. The remaining members are entitled to~~ travel, meals, and lodging expenses as provided for in 2-18-501 through 2-18-503. A member who is not a full-time salaried officer or employee of the state or of a political subdivision of the state is also entitled to be paid \$25 for each day during which the member is actually and necessarily engaged in the performance of council duties. Expenses of the council must be paid from licensing fees received by the department.

(7) The gaming advisory council shall, within its authorized budget, hold meetings and incur expenses as it considers necessary to study all aspects of gambling in the state.

(8) (a) The gaming advisory council shall submit a biennial report to the department, at a time designated by the department, with recommendations for amendments to the gambling statutes, the need for additional or modified department rules, the clarification of existing rules, and other recommendations on the operation of the department or any other gambling-related matter.

(b) The biennial report required under subsection (8)(a) must be affixed to the report on gambling in the state that the department submits that year. The department and council shall, as provided in 5-11-210, submit the two most recent department and council reports to the legislature.

(c) The council may submit interim reports to the department as the council considers necessary.

(d) The council shall meet with the department upon request of the department.

(e) The department shall meet with the council upon request of the council.

(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."

Section 2. Section 23-5-112, MCA, is amended to read:

"23-5-112. **Definitions.** Unless the context requires otherwise, the following definitions apply to parts 1 through 6 of this chapter:

(1) "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 6 of this chapter.

(2) "Application" means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.

(3) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected by the department and that randomly selects the numbers.

(4) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each letter above one of the

columns. ~~No--more~~ More than 75 numbers may not be used. One number must appear in each square, except for the center square, which may be considered a free play. Numbers are randomly drawn using authorized equipment until the game is won by the person or persons who first cover a one or more previously designated ~~arrangement~~ arrangements of numbers on the bingo card.

(5) "Bingo caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live bingo.

(6) "Card game table" or "table" means a live card game table:

(a) authorized by permit and made available to the public on the premises of a licensed gambling operator; or

(b) operated by a senior citizen center.

(7) "Card game tournament" means a gambling activity for which a permit has been issued involving participants who pay valuable consideration for the opportunity to compete against each other in a series of live card games conducted over a designated period of time.

(8) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

(9) "Department" means the department of justice.

(10) "Distributor" means a person who:

(a) purchases or obtains from ~~another person~~ another person a licensed

1 manufacturer equipment of any kind for use in gambling
2 activities; and

3 (b) ~~sells, leases, or otherwise furnishes~~ the equipment
4 ~~to another person for use in public~~ a licensed distributor,
5 route operator, or operator.

6 (11) "Gambling" or "gambling activity" means risking
7 money, credit, deposit, check, property, or any other thing
8 of value for a gain that is contingent in whole or in part
9 upon lot, chance, or the operation of a gambling device or
10 gambling enterprise. The term does not mean conducting or
11 participating in a promotional game of chance and does not
12 include amusement games regulated by Title 23, chapter 6,
13 part 1.

14 (12) "Gambling device" means a mechanical,
15 electromechanical, or electronic device, machine, slot
16 machine, instrument, apparatus, contrivance, scheme, or
17 system used or intended for use in any gambling activity.

18 (13) "Gambling enterprise" means an activity, scheme, or
19 agreement or an attempted activity, scheme, or agreement to
20 provide gambling or a gambling device to the public.

21 (14) "Gross proceeds" means gross revenue received less
22 prizes paid out.

23 (15) "Illegal gambling device" means a gambling device
24 not specifically authorized by statute or by the rules of
25 the department. The term includes:

1 (a) a ticket or card, by whatever name known,
2 containing concealed numbers or symbols that may match
3 numbers or symbols designated in advance as prize winners,
4 including a pull tab, punchboard, push card, tip board,
5 pickle ticket, break-open, or jar game, except for one used
6 under chapter 7 or under part 5 of this chapter or in a
7 promotional game of chance approved by the department; and

8 (b) an apparatus, implement, or device, by whatever
9 name known, specifically designed to be used in conducting
10 an illegal gambling enterprise, including a faro box, faro
11 layout, roulette wheel, roulette table, or craps table or a
12 slot machine except as provided in 23-5-153.

13 (16) "Illegal gambling enterprise" means a gambling
14 enterprise that violates or is not specifically authorized
15 by a statute or a rule of the department. The term includes:

16 (a) a card game, by whatever name known, involving any
17 bank or fund from which a participant may win money or other
18 consideration and that receives money or other consideration
19 lost by the participant and includes the card games of
20 blackjack, twenty-one, jacks or better, baccarat, or chemin
21 de fer;

22 (b) a dice game, by whatever name known, in which a
23 participant wagers on the outcome of the roll of one or more
24 dice, includes craps, hazard, or chuck-a-luck, but does not
25 include an activity in which a participant rolls one or more

1 dice for a chance to obtain a drink or music; and

2 (c) sports betting, by whatever name known, in which a
3 person places a wager on the outcome of an athletic event,
4 including bookmaking, parlay bets, or sultan sports cards,
5 but not including those activities authorized in chapter 4
6 of this title and parts 2 and 5 of this chapter.

7 (17) "Keno" means a game of chance in which prizes are
8 awarded using a card with 8 horizontal rows and 10 columns
9 on which a player may pick up to 10 numbers. A keno caller,
10 using authorized equipment, shall select at random at least
11 20 numbers out of numbers between 1 and 80, inclusive.

12 (18) "Keno caller" means a person 18 years of age or
13 older who, using authorized equipment, announces the order
14 of the numbers drawn in live keno.

15 (19) "License" means an operator's, dealer's,
16 distributor's, manufacturer's, or manufacturer-distributor's
17 route operator's license issued to a person by the
18 department.

19 (20) "Licensee" means a person who has received a
20 license from the department.

21 (21) "Live card game" or "card game" means a card game
22 that is played in public between persons on the premises of
23 a licensed gambling operator or in a senior citizen center.

24 (22) "Lottery" or "gift enterprise" means a scheme, by
25 whatever name known, for the disposal or distribution of

1 property by chance among persons who have paid or promised
2 to pay valuable consideration for the chance of obtaining
3 the property or a portion of it or for a share or interest
4 in the property upon an agreement, understanding, or
5 expectation that it is to be distributed or disposed of by
6 lot or chance. However, "gift enterprise" does not mean:

7 (a) lotteries authorized under chapter 7; 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 (23) "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 and who sells the equipment directly to a licensed
16 distributor, route operator, or operator.

17 (24) "Nonprofit organization" means a nonprofit
18 corporation or nonprofit charitable, religious, scholastic,
19 educational, veterans', fraternal, beneficial, civic, senior
20 citizens', or service organization established for purposes
21 other than to conduct a gambling activity.

22 (25) "Operator" means a person who purchases, receives,
23 or acquires, by lease or otherwise, and operates or controls
24 for use in public, a gambling device or gambling enterprise
25 authorized under parts 1 through 6 of this chapter.

(26) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 6 of this chapter.

(27) "Person" or "persons" means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

(28) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

(29) "Promotional game of chance" means a scheme, by whatever name known, for the disposal or distribution of property by-chance among persons who have not paid or are not expected to pay any valuable consideration or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the property, a portion of it, or a share in it. The property is disposed of or distributed by simulating a gambling enterprise authorized by parts 1 through 8 of this chapter or by operating a device approved by the department that was manufactured or intended for use for purposes other than gambling.

(30) "Public gambling" means gambling conducted in:

(a) a place, building, or conveyance to which the

public has access or may be permitted to have access;

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization; or

(c) a place, building, or conveyance to which the public does not have access if players are publicly solicited or the gambling activity is conducted in a predominantly commercial manner.

(31) "Raffle" means a form of lottery in which each participant pays valuable consideration for a ticket to become eligible to win a prize. Winners must be determined by a random selection process approved by department rule.

(32) "Route operator" means a person who:

(a) purchases from a licensed manufacturer or distributor equipment of any kind for use in a gambling activity;

(b) leases the equipment to a licensed operator for use by the public; and

(c) may sell to a licensed operator equipment that had previously been authorized to be operated on a premises.

~~(32)~~(33) "Senior citizen center" means a facility operated by a nonprofit or governmental organization that provides services to senior citizens in the form of daytime or evening educational or recreational activities and does

not provide living accommodations to senior citizens. Services qualifying under this definition must be recognized in the state plan on aging adopted by the department of family services.

~~(33)~~(34) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. This definition does not apply to video gambling machines authorized under part 6 of this chapter.

~~(34)~~(35) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department."

Section 3. Section 23-5-123, MCA, is amended to read:

"23-5-123. Disposal of money confiscated by reason of violation of gambling laws. All fines, penalties, forfeitures, and confiscated money collected by criminal, civil, or administrative process for a violation of a

provision of parts 1 through 6 of this chapter or a rule of the department must be deposited--one-half--in--the--state general--fund--and--one-half--in--the--general--fund--of--the--county in--which--the--violation--occurred distributed as follows:

(1) Funds collected through a criminal proceeding must be distributed according to 3-10-601 or 46-18-235.

(2) One-third of the funds collected through a civil or administrative proceeding must be deposited in the state special revenue account maintained for funds used by the department in administering parts 1 through 8 of this chapter and related rules. The remainder must be distributed to the county treasurer or the clerk, financial officer, or treasurer of the city or town in which the violation occurred for deposit in the county or municipal treasury. A county is not entitled to a penalty payment if the violation occurred in an incorporated city or town within the county."

Section 4. Section 23-5-136, MCA, is amended to read:

"23-5-136. Injunction and other remedies. (1) If 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) upon clear and convincing evidence, issue a temporary order to cease and desist from the gambling activity, act, or practice for a period not to exceed 60

1 days;

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

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

8 (ii) place a licensee on probation;

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

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

16 (v) impose a civil penalty not to exceed \$10,000 for
17 each violation, whether or not the person is licensed by the
18 department; and

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

21 (c) bring an action in district court for relief
22 against the act or practice. The department may not be
23 required to post a bond. On proper showing, the court may:

24 (i) issue a restraining order, a temporary or permanent
25 injunction, or other appropriate writ;

1 (ii) suspend or revoke a license or permit; and

2 (iii) appoint a receiver or conservator for the
3 defendant or the assets of the defendant.

4 (2) The department may issue a warrant for distraint
5 against an operator who fails to pay a civil penalty imposed
6 under subsection (1) or a tax imposed under 23-5-409 or
7 23-5-610. The department may issue the warrant for the
8 amount of the unpaid penalty or for the amount of the unpaid
9 tax, plus penalty and accumulated interest on the tax, and
10 shall follow the procedures provided in 15-1-701 through
11 15-1-708.

12 (3) (a) A civil penalty imposed under this section must
13 be collected by the department and distributed as provided
14 in 23-5-123. The local government portion of the penalty
15 payment is statutorily appropriated to the department, as
16 provided in 17-7-502, for deposit to the county or municipal
17 treasury.

18 (b) If a person fails to pay the civil penalty, the
19 amount due is a lien on the person's licensed premises and
20 gambling devices in the state and may be recovered by the
21 department in a civil action."

22 NEW SECTION. Section 5. Evidence in administrative
23 proceedings. When conducting an administrative proceeding
24 under parts 1 through 8 of this chapter, the department may
25 admit into the record and give probative effect to evidence

that possesses probative value commonly accepted by reasonably prudent persons.

Section 6. Section 23-5-152, MCA, is amended to read:

"23-5-152. Possession of illegal gambling device or conducting illegal gambling enterprise prohibited -- exceptions. (1) Except as provided in 23-5-153 and subsections (2) through (4) of this section, it is a misdemeanor punishable under 23-5-161 for a person to purposely or knowingly:

(a) have in his the person's possession or under his the person's control or permit to be placed, maintained, or kept in any room, space, enclosure, or building owned, leased, or occupied by him or under his the person's management or control an illegal gambling device; or

(b) operate an illegal gambling enterprise.

(2) Subsection (1) does not apply to a public officer or to a person coming into possession of an illegal gambling device in or by reason of the performance of an official duty and holding it to be disposed of according to law.

(3) (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.

(b) A person may not manufacture or possess an illegal gambling device for export from the state without having

obtained a license from the department. The department may charge an administrative fee for the license that is commensurate with the cost of issuing the license.

(c) A person licensed under subsection (3) may bring an illegal gambling device into the state after-notifying if:

(i) the illegal gambling device contains a component that will be used by the licensee to manufacture an illegal gambling device for export from the state; or

(ii) the illegal gambling device will be reconditioned, refurbished, repaired, or otherwise substantially modified in preparation for export from the state; and

(iii) the licensee has notified the department and receiving received authorization from the department to bring the illegal gambling device into the state. The person licensee is subject to reporting requirements provided for in rules adopted under subsection (3)(a).

(4) An illegal gambling device may be possessed or located for display purposes only and not for operation:

(a) in a public or private museum; or

(b) in any other public place if the device has been made permanently inoperable for purposes of conducting a gambling activity."

Section 7. Section 23-5-157, MCA, is amended to read:

"23-5-157. Gambling on cash basis. (1) In every gambling activity, except raffles as authorized in 23-5-413,

the consideration paid for the chance to play must be cash. A participant shall present the money needed to play the game as the game is being played. A 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. 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.

(2) A person who violates this section is guilty of:

(a) a misdemeanor if the total amount of credit extended or received on a single occasion or as part of a common scheme, as defined in 45-2-101, is \$300 or less and must be punished in accordance with 23-5-161; or

(b) a felony if the total amount of credit extended or received on a single occasion or as part of a common scheme, as defined in 45-2-101, exceeds \$300 and must be punished in accordance with 23-5-162."

Section 8. Section 23-5-158, MCA, is amended to read:

"23-5-158. Minors not to participate -- penalty -- exception. (1) Except as provided in subsection (2) (3), a person may not purposely or knowingly allow a person under 18 years of age to participate in a gambling activity. A person who violates this subsection is guilty of a misdemeanor and must be punished in accordance with

23-5-161.

(2) Except as provided in subsection (3), a person under 18 years of age may not purposely or knowingly participate in a gambling activity. A person who violates this subsection is subject to a civil penalty not to exceed \$50 if the proceedings for violating this subsection are held in justice's, municipal, or city court. If the proceedings are held in youth court, the offender must be treated as an alleged youth in need of supervision, as defined in 41-5-103. The youth court may enter its judgment under 41-5-523.

(2)(3) A person under 18 years of age may sell or buy tickets for or receive prizes from a raffle conducted in compliance with 23-5-413 if proceeds from the raffle, minus administrative expenses and prizes paid, are used to support charitable activities, scholarships or educational grants, or community service projects."

Section 9. Section 23-5-160, MCA, is amended to read:

"23-5-160. Shaking dice for a drink or music or in a shake-a-day game. (1) It is legal for a customer in an establishment licensed for the sale of alcoholic beverages to be consumed on the premises to:

(a) shake or choose one or more dice, alone or with an owner or employee of the establishment, to determine whether the customer or the establishment shall pay for the

1 customer's drink or to determine whether the customer or the
2 establishment shall immediately pay a predetermined amount
3 of money, not to exceed \$2, for music from a jukebox in the
4 establishment; or

5 (b) play the dice game commonly known as shake-a-day,
6 in which a customer may once each day pay an amount of money
7 predetermined by the establishment, but not more than 50
8 cents, and shake a number of dice predetermined by the
9 establishment in an attempt to roll a certain combination
10 combinations simulating a poker hand hands predetermined by
11 the establishment and, if one of the combination
12 combinations is rolled, the customer may win merchandise or
13 a portion or all of the money paid to play the game since
14 the last winning combination was rolled. The establishment
15 may, before a game begins, limit the amount that will be won
16 and use the remaining money played on that game to start the
17 pot for the next game, thus enhancing the incentive to play
18 the next game in the early stages of the next game. All
19 money paid to play games must be paid out as winnings. An
20 establishment may offer to the public more than one
21 shake-a-day game at any given time.

22 (2) Nothing in this section authorizes the dice game of
23 craps or any other dice game not specifically described in
24 this section."

25 **Section 10.** Section 23-5-306, MCA, is amended to read:

1 **"23-5-306. (Temporary) Live card game table -- permit**
2 **-- fees -- disposition of fees.** (1) A person who has been
3 granted an operator's license under 23-5-177 and a license
4 to sell alcoholic beverages for consumption on the premises
5 may be granted an annual permit for the placement of live
6 card game tables. If one or more live card game tables were
7 legally operated on a premises on January 15, 1989, and the
8 premises were not on that date licensed under 16-4-401(2)
9 but were licensed on that date to sell food, cigarettes, or
10 any other consumable product, an operator's license and an
11 annual permit for the placement of live card game tables may
12 be granted to the person who legally operated the premises
13 on January 15, 1989.

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

17 (a) \$250 for the first table; and

18 (b) \$500 for each additional table.

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

22 (4) Except as provided in subsection (5), the
23 department shall forward on a quarterly basis the remaining
24 balance of the fee collected under subsection (2) to the
25 treasurer of the county or the clerk, finance officer, or

1 treasurer of the city or town in which the live card game
2 table is located for deposit to the county or municipal
3 treasury. A county is not entitled to proceeds from fees
4 assessed on live card game tables located in incorporated
5 cities and towns within the county. The local government
6 portion of this fee is statutorily appropriated to the
7 department, as provided in 17-7-502, for deposit to the
8 county or municipal treasury.

9 (5) On June 30, 1993, the department shall transfer to
10 the general fund the remaining fund balance from the account
11 funded by this section. (Terminates July 1, 1993--sec. 2,
12 Ch. 18, Sp. L. January 1992.)

13 23-5-306. (Effective July 1, 1993) Live card game table
14 -- permit -- fees -- disposition of fees. (1) (a) A person
15 who has been granted an operator's license under 23-5-177
16 and a license to sell alcoholic beverages for consumption on
17 the premises may be granted an annual permit for the
18 placement of live card game tables.

19 (b) The department may issue an annual permit for the
20 placement of live card game tables to a person operating a
21 premises not licensed to sell alcoholic beverages for
22 consumption on the premises if:

23 (i) If one or more live card game tables were legally
24 operated on a the premises on January 15, 1989, ~~and the~~
25 ~~premises were not on that date licensed under 16-4-401(2)~~

1 but;

2 (ii) the premises were licensed on that date January 15,
3 1989, to sell food, cigarettes, or any other consumable
4 product, an operator's license and an annual permit for the
5 placement of live card game tables may be granted to the
6 person who legally operated the premises on January 15,
7 1989;

8 (iii) the person has been granted an operator's license
9 under 23-5-177; and

10 (iv) at the time of application for the permit:

11 (A) the person has continuously operated a live card
12 game table on the premises since January 15, 1989; and

13 (B) the natural person or persons who own the business
14 operated on the premises are the same as on January 15,
15 1989.

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

19 (a) \$250 for the first table; and

20 (b) \$500 for each additional table.

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

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

(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. A county is not entitled to proceeds from fees assessed on live card game tables located in 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."

Section 11. Section 23-5-312, MCA, is amended to read:

"23-5-312. Prizes not to exceed three hundred dollars.

(1) A prize for an individual live card game may not exceed the value of \$300. Games may not be combined in any manner so as to increase the value of the ultimate prize awarded. Except during a tournament conducted under 23-5-317, all prizes must be awarded immediately upon completion of each hand.

(2) If a licensed operator conducts a promotional game of chance involving a live card game, the prize limit provided for in subsection (1) applies to prizes awarded as a result of the promotional game of chance."

Section 12. Section 23-5-317, MCA, is amended to read:

"23-5-317. Tournaments. (1) Subject to the department's approval, a licensed operator who has a permit for placing at least 1 live card game table on his the operator's

premises may conduct up to 12 live card game tournaments a year on his premises. Each tournament may be conducted for no more than 5 consecutive days. If an operator conducts more than one tournament a year, at least 7 days must lapse between the conclusion of one tournament and the beginning of the next tournament.

(2) (a) Before the start of a tournament, the operator shall submit to the department an application for a tournament permit. The permit application must be accompanied by a \$10 fee. The department shall retain the fee for administrative purposes.

(b) If a tournament is to be conducted on the premises of more than one licensed operator, each operator shall submit a permit application and processing fee. The permit is applied toward each operator's annual 12-tournament limit.

(3) Permits for placement of additional live card game tables, as provided in 23-5-306, are not required for additional tables authorized under a tournament permit.

(4) Tournament participants must be provided with a copy of the tournament rules before the start of the tournament. A copy of the rules must be posted in a conspicuous location in each area where the tournament is conducted.

(5) A person must be present on the premises during the

1 tournament to oversee the conduct of the card games and to
2 settle disputes among players. This person may be a dealer
3 licensed under 23-5-308.

4 (6) Only a dealer licensed under 23-5-308 may deal
5 cards at a poker or panguingue tournament.

6 ~~(6)~~(7) A licensed operator may charge a tournament
7 participant an entry fee, which may include a fee to cover
8 expenses incurred in conducting the tournament. A
9 participant who has been eliminated from competition during
10 the tournament may reenter the tournament by paying an
11 additional fee if permitted to do so under tournament rules.
12 A rake-off may not be taken during a tournament card game.

13 ~~(7)~~(8) The face value of the chips used does not govern
14 the value of the pot awarded at the end of the tournament.

15 ~~(8)~~(9) The provisions of this part and the department
16 rules governing live card games apply to live card games
17 conducted as part of a tournament unless otherwise
18 provided."

19 **Section 13.** Section 23-5-324, MCA, is amended to read:

20 "23-5-324. Card room contractor's license -- fee --
21 submission of contract. (1) It is a misdemeanor for a person
22 to enter into a contract with a licensed operator to operate
23 one or more live card game tables on the operator's premises
24 without obtaining a card room contractor's license from the
25 department.

1 (2) The department shall charge an annual license fee
2 of \$150 for issuing or renewing a card room contractor's
3 license. The department shall retain the fee for
4 administrative purposes.

5 (3) The applicant shall submit at the time of
6 application for a card room contractor's license a copy of
7 the agreement entered into with the licensed operator.

8 (4) Operation of a live card room table by a licensed
9 card room contractor does not relieve an operator of civil
10 or criminal liability for a violation of parts 1 through 8
11 of this chapter or of department rules that occurs on the
12 operator's premises."

13 **Section 14.** Section 23-5-412, MCA, is amended to read:

14 "23-5-412. Card prices and prizes -- exception. (1)
15 Except as provided in subsection (3):

16 (a) the price for an individual bingo or keno card game
17 may not exceed 50 cents;

18 (b) a prize may not exceed the value of \$100 for each
19 individual bingo award or keno card game; and

20 (c) it is unlawful to, in any manner, combine any
21 awards bingo or keno games so as to increase the ultimate
22 value of the award prize.

23 (2) Bingo and keno prizes may be paid in either
24 tangible personal property or cash.

25 (3) A variation of the game of keno, as approved by the

1 department, in which a player selects three or more numbers
2 and places a wager on various combinations of these numbers
3 is permissible if:

4 (a) no more than 50 cents is wagered on each
5 combination of numbers; and

6 (b) a winning combination does not pay more than \$100.

7 (4) A player may give a keno caller a card with
8 instructions on the card to play that card and its marked
9 numbers for up to the number of successive games that the
10 house allows and that the player has indicated on the card,
11 upon payment of the price per game times the number of
12 successive games indicated. The player shall remain on the
13 house premises until the card is played or withdrawn. The
14 caller shall keep the card until the end of the number of
15 games indicated, and the department may by rule provide that
16 at that time the caller shall pay the player any prizes won.

17 (5) If a licensed operator conducts a promotional game
18 of chance involving bingo or keno, the prize limit provided
19 for in subsection (1) applies to prizes awarded as a result
20 of the promotional game of chance."

21 **NEW SECTION. Section 15.** Distributor's license --
22 fees. (1) It is a misdemeanor for a person to conduct
23 business as a distributor without first obtaining a
24 distributor's license from the department.

25 (2) The department shall charge an annual license fee

1 of \$1,000 for issuing or renewing a distributor's license.
2 The department shall retain the fee for administrative
3 purposes.

4 (3) A distributor's license expires June 30 of each
5 year, and the license fee may not be prorated.

6 (4) Except as provided in subsection (6), the
7 department may charge an additional, one-time license
8 application processing fee to cover the actual cost of
9 processing the original license. The department shall refund
10 any amount of the application processing fee not needed to
11 reimburse the department for actual costs or shall collect
12 an amount sufficient to reimburse the department for actual
13 costs not completely covered by the initial fee charged.

14 (5) The department shall retain for administrative
15 purposes the license and application processing fees
16 collected under this section.

17 (6) The department may waive the application processing
18 fee provided for in subsection (4) if the applicant is
19 licensed as a manufacturer, route operator, or operator.

20 **NEW SECTION. Section 16.** Route operator's license --
21 fees. (1) It is a misdemeanor for a person to conduct
22 business as a route operator without first obtaining a route
23 operator's license from the department.

24 (2) The department shall charge an annual license fee
25 of \$1,000 for issuing or renewing a route operator's

license. The department shall retain the fee for administrative purposes.

(3) A route operator's license expires June 30 of each year, and the license fee may not be prorated.

(4) Except as provided in subsection (6), the department may charge an additional, one-time license application processing fee to cover the actual cost of processing the original license. The department shall refund any amount of the application processing fee not needed to reimburse the department for actual costs or shall collect an amount sufficient to reimburse the department for actual costs not completely covered by the initial fee charged.

(5) The department shall retain for administrative purposes the license and application processing fees collected under this section.

(6) The department may waive the application processing fee provided for in subsection (4) if the applicant is licensed as a manufacturer, distributor, or operator.

NEW SECTION. Section 17. Allowable compensation for route operator. The compensation that a licensed route operator may receive for leasing a video gambling machine to a licensed operator is limited to a set fee or a percentage of gross machine income, or both a set fee and percentage amount. The route operator may not assume responsibility for any expenses of the operator's business except for expenses

associated with:

(1) paying video gambling machine permit fees and taxes;

(2) conducting video gambling machine promotional activities;

(3) maintaining and repairing video gambling machines;

(4) supplying funds to allow an operator to exchange a player's money for other coin or currency for operating a video gambling machine;

(5) providing accounting and recordkeeping services for video gambling machines; and

(6) other activities, if allowed by department rule.

Section 18. 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 gambling machine, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, metering devices, and cabinetry.

(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 directly dispenses coins, cash, tokens, or anything else of value.

(3) "Draw poker machine" means an electronic video gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker 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 directly dispenses coins, cash, tokens, or anything else of value.

(4) "Gross income" means money put into a video gambling machine minus credits paid out in cash.

(5) "Keno machine" means an electronic video gambling machine that, upon insertion of cash, is available to play keno 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 directly dispenses coins, cash, tokens, or anything else of value.

~~(6) "Video-gambling-machine-manufacturer-distributor" means a person who assembles, produces, makes, or supplies video-gambling-machines-or-associated-equipment-for-sale, use, or distribution in the state."~~

Section 19. Section 23-5-611, MCA, is amended to read:

"23-5-611. Machine permit qualifications -- limitations. (1) (a) A person who has been granted an operator's license under 23-5-177 and a license to sell alcoholic beverages for consumption on the premises may be granted a permit for the placement of video gambling machines in his the premises.

(b) 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 to sell alcoholic beverages for consumption on the premises or operated for the principal purpose of gaming and there is an operator's license for the premises under 23-5-177, 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 the machines on those premises on that date, subject to the provisions of subsection (1)(d).

(c) A person who legally operated an establishment on January 15, 1989, for the principal purpose of gaming and has been granted an operator's license under 23-5-177 may be

granted a permit for the placement of bingo and keno machines in his on the premises, subject to the provisions of subsection (1)(d).

(d) The department may issue an annual permit under subsection (1)(b) or (1)(c) if at the time of application for the permit:

(i) the person has continuously operated the video gambling machine on the premises since January 15, 1989; and

(ii) the natural person or persons who own the business operated on the premises are the same as on January 15, 1989.

(2) An applicant for a permit shall disclose on the application form to the department any information required by the department consistent with the provisions of 23-5-176.

(3) A licensee may not have on the premises or make available for play on the premises more than 20 machines of any combination."

Section 20. Section 23-5-625, MCA, is amended to read:

"23-5-625. Video gambling machine manufacturer-distributor manufacturer -- license -- fees -- restrictions. (1) ~~(a) Except as provided in subsections (2) and (3), it~~ It is unlawful for any person to assemble, produce, or manufacture ~~or supply~~ any video gambling machine or associated equipment for use or play in the state

without having first been issued a video gambling machine manufacturer-distributor's manufacturer's license by the department. A licensed manufacturer-distributor manufacturer may supply a video gambling machine only to another licensed manufacturer-distributor manufacturer or to a licensed distributor, route operator, or operator.

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

~~(c)~~(3) ~~In addition to other license fees~~ Except as provided in subsection (6), the department may charge the applicant a an additional, one-time video gambling machine manufacturer-distributor's manufacturer's license application processing fee. The application processing fee may not exceed the department's actual costs for processing an application.

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

~~(e)~~(5) The department shall retain the license and processing fees collected for purposes of administering this part, unless otherwise provided.

~~(2) A licensed operator who is not licensed as a~~

1 manufacturer-distributor--may--sell--up-to-20-video-gambling
2 machines-in-a-calendar-year-if-the-operator:

3 {a}--had-obtained-permits-for-the-machines--and--legally
4 operated-them-prior-to-the-sale; and

5 {b}--sells--the-machines-to-another-licensed-operator-or
6 a-licensed-manufacturer-distributor;

7 {c}--A-lienholder-who-acquires-title-to--video--gambling
8 machines--through--a-foreclosure-action-involving-a-licensed
9 operator-or-manufacturer-distributor-may-sell--the--machines
10 to-a-licensed-operator-or-licensed-manufacturer-distributor;

11 (6) The department may waive the application processing
12 fee provided for in subsection (3) if the applicant is
13 licensed as a distributor, route operator, or operator."

14 NEW SECTION. Section 21. Sale of video gambling
15 machines by operator or lienholder. (1) A licensed operator
16 who is not licensed as a manufacturer, distributor, or route
17 operator may sell up to 20 video gambling machines in a
18 calendar year if the operator:

19 (a) had obtained permits for the machines and legally
20 operated them prior to the sale; and

21 (b) sells the machines to another licensed operator or
22 to a licensed manufacturer, distributor, or route operator.

23 (2) A lienholder who acquires title to video gambling
24 machines through a foreclosure action involving a licensed
25 manufacturer, distributor, route operator, or operator may

1 sell the machines to a licensed manufacturer, distributor,
2 route operator, or operator.

3 **Section 22.** Section 23-5-631, MCA, is amended to read:

4 "23-5-631. Examination and approval of new video
5 gambling machines and associated equipment -- fee. (1) The
6 department shall examine and may approve a new video
7 gambling machine and or associated equipment or a
8 modification to an approved machine or associated equipment
9 which are that is manufactured, sold, or distributed for use
10 in the state before the video gambling machine or associated
11 equipment is sold, played, or used.

12 (2) A video gambling machine or associated equipment or
13 a modification to an approved machine or associated
14 equipment may not be examined or approved by the department
15 until the video gambling machine manufacturer-distributor
16 manufacturer is licensed as required in 23-5-625.

17 (3) All video gambling machines or associated equipment
18 approved by the department of commerce prior to October 1,
19 1989, must be considered approved under this part.

20 (4) The department shall require the
21 manufacturer-distributor manufacturer seeking the
22 examination and approval of a new video gambling machine or
23 associated equipment or a modification to an approved
24 machine or associated equipment to pay the anticipated
25 actual costs of the examination in advance and, after the

completion of the examination, shall refund overpayments or charge and collect amounts sufficient to reimburse the department for underpayments of actual costs.

(5) Payments received under subsection (4) are statutorily appropriated to the department, as provided in 17-7-502, to defray the costs of examining and approving video gambling machines and associated equipment and modifications to approved machines and associated equipment and to issue refunds for overpayments.

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

Section 23. Section 23-6-104, MCA, is amended to read:

"23-6-104. Amusement games allowed. (1) Crane games, as defined in 23-6-101, and the games described in subsection (2) may be made available for public play.

(2) (a) Fish pond (duck pond). The player catches a fish or other object floating in a pond of water by using a pole, hand, net, or string. All fish or objects are marked on the bottom, indicating the size of prize the player wins. The player is awarded a prize each time, and the player must be allowed to continue playing until a prize is won.

(b) Hoop or ring toss. The player tosses a hoop or ring

over a target that must consist of bottles, pegs, blocks, or prizes. The operator shall specifically advise the player as to the degree that the hoop or ring must go over the target. All hoops of the same color used at an individual stand must be the same size. All targets used at an individual booth must be the same size, or the operator shall advise the player by posting signs or using color codes denoting the different sizes.

(c) Dart games. The target area for all dart games must be of a material capable of being penetrated and of retaining a metal tip dart. The target area must be in the rear of the stand and must be at least 3 feet but not more than 15 feet from the foul line. A target must be stationary at all times.

(i) Balloon (poparoo) (balloon smash). The targets are inflated balloons. The player throws one or more darts to burst a predetermined number of balloons. If the predetermined number of balloons are burst by the darts, the player receives the prize indicated.

(ii) Dart throw. The targets are various sizes and shapes located on the target area. The player throws darts individually at the target. A dart must stick in a predetermined target to win the prize as designated.

(iii) Tic tac toe dart. The target is a tic tac toe board located in the target area. The player throws darts at

1 the target and wins a designated prize when the thrown darts
2 line up in a row in the target. The darts may line up
3 vertically, horizontally, or diagonally to win.

4 (iv) Add-um-up darts. The target consists of numbered
5 squares located in the target area. Prizes are awarded based
6 on the total score obtained by the player by throwing and
7 sticking the darts in the numbered squares. A dart that
8 sticks on a line must be thrown again. The player may add up
9 the score of the darts thrown.

10 (d) Ball tosses. In all ball toss games, the balls used
11 at a specific stand must be of the same weight and size.
12 Targets must be of the same weight and size, or the operator
13 shall color code the targets and advise the player of the
14 difference in targets by posting a sign or providing a
15 duplicate of the target showing the limitations or
16 restrictions. The sign or duplicate target must be readily
17 visible to the player.

18 (i) Milk bottle toss. The player tosses or throws balls
19 at simulated milk bottles. The player wins by either tipping
20 over or knocking bottles off the raised platform as
21 designated by the operator. The bottles may be constructed
22 of wood, metal, or plastic or a combination of the three.
23 Operators may vary the number of bottles and balls used in
24 each game. Floating or loose weights in bottles are not
25 allowed. The weight of individual bottles may not exceed 7

1 1/2 pounds.

2 (ii) Milk can (Mexican hat) (cone). The player tosses a
3 ball into the opening of a milk can, into a fiberglass
4 Mexican hat turned upside down, or through a cone to win.

5 (iii) Football toss (tire toss). The player tosses or
6 throws a football through a stationary tire or hoop to win.

7 (iv) Basketball toss/throw. The player tosses or throws
8 a basketball through a hoop to win.

9 (v) Bushel baskets. The player tosses balls into a
10 bushel basket mounted on a stationary backdrop at a fixed
11 angle. The balls must stay in the basket to win. Rim shots
12 are allowed, except the operator may designate the top 6
13 inches of the basket rim by color and disallow balls
14 striking this area as winning tosses.

15 (vi) Cat-ball-toss (star/diamond toss). The player
16 tosses balls into a simulated cat's mouth or a round,
17 diamond, or star-shaped hole to win.

18 (vii) Ping pong toss. The player tosses ping pong balls
19 into dishes, saucers, cups, or ashtrays floating in water. A
20 predetermined number of balls must remain in the dishes,
21 saucers, cups, or ashtrays for the player to win. The
22 dishes, saucers, cups, or ashtrays must have water covering
23 the bottom of the surface that is facing up.

24 (viii) Fishbowl game. The player tosses ping pong balls
25 into a water-filled fish bowl to win.

1 (ix) Volleyball toss (soccer ball). The player tosses a
2 volley or soccer ball into a keg-type container mounted on a
3 stationary backdrop at a fixed angle. The ball must stay in
4 the keg to win a prize. Rim shots are authorized as stated
5 in subsection (2)(d)(v) for bushel baskets.

6 (x) Goblet ball (whiffle ball). The player tosses a
7 whiffle ball into a target area of glass or plastic goblets.
8 Located in the target area are colored goblets that
9 determine the type of prize the player wins. At least 33% of
10 the goblets in the target area must be winners. The ball
11 must stay in the goblet to win a prize.

12 (xi) Break the plate/bottle. The player tosses or throws
13 a ball at a plate, phonograph record, or bottle. The type of
14 prize won is determined by the number of targets broken by
15 the player.

16 (xii) Punk rack. The targets for this game are rows of
17 dolls or cats on a ledge at the rear of the stand. The dolls
18 or cats must be filled with sawdust, styrofoam, cotton, or
19 other like material that provides a firm base for the ball
20 to strike. The hair protruding from the side of the dolls or
21 cats may not exceed 3 inches. The prize is determined by how
22 many dolls or cats the player knocks over or off the ledge,
23 as posted by the operator.

24 (xiii) Teeth game. The target consists of a large face
25 with wooden teeth. The prize is determined by how many teeth

1 the player knocks down by throwing a ball.

2 (xiv) Toilet game (doniker). To win, the player tosses
3 or throws a ball or other object through a toilet seat
4 located at the rear of the stand.

5 (xv) Coke roll. The player rolls a ball down an alley
6 with the object of knocking over two coke bottles standing
7 at the end of the alley. The player must tip over both
8 bottles to win. Bottles must be placed on predetermined
9 spots painted on the surface of the alley.

10 (xvi) Rolldown. The player rolls balls down an alley
11 with the object of putting the balls in numbered slots at
12 the end of the alley. The scores represented by the balls in
13 each numbered slot are added up at the conclusion of the
14 game. Scores above or below a predetermined score win. The
15 alley surface must be smooth and free from defects at all
16 times.

17 (xvii) Fascination (I got it). Fascination is a group
18 game that involves competition among the players. The target
19 area consists of 25 holes, and the player tosses or rolls a
20 ball into one of the holes. The object of the game is to get
21 five balls in a row either vertically, horizontally, or
22 diagonally. The first player to accomplish this is the
23 winner. Prize size is determined by the number of players
24 participating in each game.

25 (xviii) Cakewalk--The--players--walk-on-a-predetermined

1 route-with-designated-spots-and-when-the-operator-stops-the
2 walk-the-player-on-a-predetermined-spot-wins-a-prize.

3 {***}(xviii) Batter-up. The player uses a whiffle ball
4 bat to swing and strike whiffle balls that are pitched at
5 medium speed from a pitching machine. The player wins when
6 he the player hits a ball into the home run shelf. The home
7 run shelf is located at the back of the batting cage
8 approximately 15 feet from the player.

9 {***}(xix) Sky bowling. Two bowling pins are set on
10 predetermined painted spots on a shelf. A ball is attached
11 to a chain suspended from a stationary support at least 6
12 inches to the right or left of the bowling pins. The object
13 is to swing the ball, miss the pins with the ball as it goes
14 forward, and knock the pins over as the ball returns.

15 {***}(xx) Clown rolldown. A ball is tossed through the
16 open mouth of a moving clown or animal head. The ball then
17 rolls down a chute to numbered slots at the rear of the
18 clown or animal head. The scores represented by the balls in
19 each numbered slot are added up at the conclusion of the
20 game. Prizes are awarded on the points achieved.

21 {***}(xxi) Skee ball. The player rolls a ball up the
22 mechanical bowling alley into targets. A computer adds up
23 the scores, and the predetermined scores win.

24 {***}(xxii) Speedball radar game. The player gets four
25 balls and throws three balls through radar to establish

1 speeds and to estimate at what speed the fourth ball will
2 pass through the radar. The player wins a prize if he the
3 player accurately estimates the speed of the fourth ball.
4 The radar must be mounted and stationary.

5 (e) Shooting games. These games are conducted by the
6 player using a weapon of some type to shoot at a target in
7 the rear of the stand. The safety requirements of local city
8 or county ordinances must be observed by the operator and
9 player. The target may be stationary or mobile.

10 (i) Short range (shooting gallery). In this game, the
11 player is given four rounds to shoot at a spot target 1/4
12 inch or less in diameter. The player wins when the spot
13 target is completely shot out, or the player is given five
14 rounds to shoot one round each at five triangular, round, or
15 1/2-inch square targets. The prize is determined by the
16 number of targets struck by the player, or the player is
17 given five rounds to shoot one round each at five
18 triangular, round, or 1/2-inch square targets. Within each
19 target is a bull's eye. The player must hit the bull's eye
20 without touching the outer surface of the target. The prize
21 is determined by the number of bull's eyes correctly hit.

22 (ii) Shoot-out-the-star (machine gun). The player, using
23 an automatic air pellet gun, is given 100 pellets to shoot
24 at a star-shaped target. The player must shoot out all of
25 the target to win. The star cannot be more than 1 1/4 inches

1 from point-to-point.

2 (iii) Water racer. This group game involves a
3 competition, with the player winning a prize based on the
4 number of players competing. The player, using a water
5 pistol, shoots the water into a target. The water that
6 strikes the target causes a balloon to inflate or advances
7 an object to ring a bell. The first player who bursts the
8 balloon or rings the bell is the winner.

9 (iv) Rapid fire. This group game involves competition
10 similar to the water racer game described in subsection
11 (2)(e)(iii). The player uses an electronic pistol to shoot
12 at a target. Hits on the target give the player a score. The
13 first player to reach a predetermined score is the winner.

14 (v) Cork gallery. The player uses a cork gun or similar
15 device to propel objects, including but not limited to
16 corks, suction cup darts, or styrofoam balls, to shoot at
17 targets located on a shelf or at a bull's eye target. The
18 player must hit the bull's eye or knock the target over or
19 off the shelf to win a prize. The prize is determined by the
20 target knocked over or off the shelf, by the number of
21 targets knocked over or off the shelf, or by the player
22 accomplishing other tasks, as stated in the posted rules.
23 When suction cup darts or other darts are used and fail to
24 stay on or in the target, the player must shoot the dart
25 again. The base of each target must be uniform, front and

1 rear.

2 (vi) Boomball. The player uses a cannon with compressed
3 air to propel balls into a target area. The targets have
4 varied point value. If the ball remains in the target, a
5 computer adds up the score. Prizes are awarded based on the
6 points achieved.

7 (f) Coin pitchers.

8 (i) Spot pitch (lucky strike). The player pitches a
9 coin at colored spots located on a table in the center of
10 the stand. The coin must touch or stay inside of a spot to
11 win a prize.

12 (ii) Plate pitch. The player pitches a coin onto a glass
13 plate to win a prize as designated.

14 (iii) Glass pitch (bowl). The player pitches a coin into
15 or onto dishes or glasses. If the coin remains in a top
16 target glass item, then the player wins that item.

17 (g) Cakewalk. The players walk on a predetermined route
18 with designated spots, and when the operator stops the walk,
19 the player on a predetermined spot wins a prize.

20 (g)(h) Miscellaneous games.

21 (i) Skill chute (bulldozer) (penny fall).

22 (A) The games in each of the following sentences
23 require the The player inserts to insert a coin or token
24 into a chute, aiming the coin or token so that it will fall
25 in front of a continuous sweeper (bulldozer) operating on a

1 playing field containing additional coins, tokens, or
 2 merchandise. If the A coin or token that is aimed correctly,
 3 the will cause a sweeper (bulldozer) with operating on a
 4 playing field containing additional coins to push additional
 5 tokens or prizes coins into a counting mechanism that will
 6 convert the coins into tokens or tickets and dispense them
 7 to the player. A token that is aimed correctly will cause a
 8 sweeper (bulldozer) operating on a playing field containing
 9 additional tokens or merchandise to push the tokens or
 10 merchandise into a hole or chute that sends them to the
 11 player. A token that is aimed correctly will cause a sweeper
 12 (bulldozer) operating on a playing field containing
 13 additional tokens to push tokens into a hole or chute that
 14 sends them to the player or pushes tokens into a counting
 15 mechanism that will convert the tokens into tickets and
 16 dispense them to the player.

17 (B) Tokens are exchanged for prizes. If there is a
 18 hidden There may not be a ledge, tip, or similar obstruction
 19 that inhibits the passage of coins, tokens, or prizes
 20 merchandise into the counting mechanism, hole, or chute that
 21 sends them to the player, the operator shall post a sign to
 22 advise the players.

23 (ii) Tip-em-up bottle. The player is provided with a
 24 pole and a string that has a hoop or ring attached at the
 25 end. The player, using the pole with a ring, must raise a

1 bottle lying on its side to an upright position to win.

2 (iii) Hi-striker. The player, using a wooden maul, must
 3 strike a lever target that causes a metal weight to rise on
 4 a guideline or track and ring a bell. The player must ring
 5 the bell a predetermined number of times to win a prize.

6 (iv) Rope ladder. The player must climb up a rope
 7 ladder, which is anchored at both ends by a swivel, and ring
 8 a bell or buzzer to win a prize.

9 (v) Whac-a-mole. This is a group game that has a target
 10 surface with five holes through which animated moles pop up
 11 and down at random. The player must hit as many moles as
 12 possible with a mallet. The first player to hit a
 13 predetermined number of moles wins.

14 (vi) Dip bowling game. The player rolls a bowling-type
 15 ball over a hump in the track. If the ball stays on the back
 16 side of the hump, the player wins.

17 (vii) Horserace derby. This is a group game in which a
 18 player advances his a horse by shooting or rolling a ball in
 19 the target area. The faster and more skillfully the player
 20 shoots or rolls his a ball, the faster his the player's
 21 horse will run. The first horse to cross the finish line
 22 wins.

23 (viii) Shuffleboard. The player pushes a puck down a
 24 shuffleboard alley to knock over poly pins at the end of an
 25 alley. The player wins by knocking down all the pins.

(ix) Bean bag. The player tosses or throws a bean bag or a simulated bean bag at cans, bottles, or other objects on a raised platform. The player wins a prize when he either knocks the object off the raised platform or tips the target over.

(x) Soccer kick. The player kicks a soccer ball through a hole in the target area to win.

(xi) Frog game. A plastic frog or similar object sits on a small end of a teeter-totter. The opposite end of the teeter-totter is struck with a mallet, causing the frog to fly off the teeter-totter. If the frog lands in a pail or similar receptacle, the player wins a prize.

(xii) Cover the spot. The object of this game is for the player to drop five circular discs onto a circular spot, completely covering the spot. The diameter of each of the discs used to cover the spot must be a minimum of 64% of the diameter of the spot to be covered. The spot to be covered must be painted or drawn on a permanent, solid material, such as metal or wood, or may be a lighted circle. The spot and each disc must have a uniform diameter.

(xiii) Pocket billiards. Using a regulation pocket billiard table, a player must run a consecutive number of balls to win a prize. The number of balls is set by the operator."

Section 24. Section 41-5-203, MCA, is amended to read:

"41-5-203. Jurisdiction of the court. (1) Except as provided in subsection (2), the court has exclusive original jurisdiction of all proceedings under the Montana Youth Court Act in which a youth is alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of care or concerning any person under 21 years of age charged with having violated any law of the state or ordinance of any city or town other than a traffic or fish and game law prior to having become 18 years of age.

(2) Justice, municipal, and city courts have concurrent jurisdiction with the youth court over all alcoholic beverage and gambling violations alleged to have been committed by a youth."

NEW SECTION. Section 25. Codification instruction. [Sections 5, 15 through 17, and 21] are intended to be codified as an integral part of Title 23, chapter 5, and the provisions of Title 23, chapter 5, apply to [sections 5, 15 through 17, and 21].

NEW SECTION. Section 26. Applicability. [Section 17] applies to agreements entered into after October 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0411, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act generally revising the public gambling and amusement game laws of Montana.

ASSUMPTIONS:

1. The only penalties collected in the 1995 biennium will be civil or administrative, and \$80,000 will be collected in gambling penalties each fiscal year. This bill does not increase total revenue, it simply redistributes existing revenue by decreasing general fund revenue and increasing revenue to the gaming license fee state special revenue account and to local governments.
2. The bill will have no impact on current level Gambling Control Division expenditures in the Department of Justice. However, the estimated additional state special revenue revenue provided by the bill is needed to provide funds to maintain current level expenditures.

FISCAL IMPACT:**Revenues:**

	FY '94			FY '95		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Gambling Penalties:						
General Fund	40,000	0	(40,000)	40,000	0	(40,000)
State Special Revenue (Gaming fees)	0	26,700	26,700	0	26,700	26,700
Total	40,000	26,700	(13,300)	40,000	26,700	(13,300)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Local governments would receive an additional \$13,300 per year in gambling penalty distributions.

Dave Lewis 2-11-93
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Royal Johnson 2-11-93
 ROYAL JOHNSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0411, as introduced

HB 411

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 411

INTRODUCED BY R. JOHNSON, YELLOWTAIL, WANZENRIED

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE PUBLIC GAMBLING AND AMUSEMENT GAME LAWS OF MONTANA; REVISING THE COMPENSATION FOR GAMING ADVISORY COUNCIL MEMBERS; REVISING THE DEFINITIONS OF BINGO, DISTRIBUTOR, LICENSE, MANUFACTURER, AND PROMOTIONAL GAME OF CHANCE; REVISING THE METHOD FOR DISTRIBUTING FINES, PENALTIES, AND FORFEITURES; REQUIRING THE DEPARTMENT OF JUSTICE TO HAVE CLEAR AND CONVINCING EVIDENCE BEFORE ISSUING A TEMPORARY CEASE AND DESIST ORDER; STATING THE TYPES OF EVIDENCE TO BE PRESENTED DURING AN ADMINISTRATIVE PROCEEDING; DEFINING CONDITIONS UNDER WHICH AN ILLEGAL GAMBLING DEVICE MAY BE BROUGHT INTO THE STATE FOR EXPORT PURPOSES; PROVIDING PENALTIES FOR CREDIT GAMBLING AND UNDERAGE GAMBLING VIOLATIONS; REVISING SHAKE-A-DAY PROVISIONS; CLARIFYING PROVISIONS REGARDING THE GRANTING OF CERTAIN GAMBLING PERMITS TO PERSONS WITHOUT ON-PREMISES CONSUMPTION ALCOHOLIC BEVERAGES LICENSES; REVISING CARD GAME TOURNAMENT PROVISIONS; PROVIDING THAT AN OPERATOR IS ALSO LIABLE FOR A VIOLATION INVOLVING OPERATION OF A LIVE-CARD-ROOM-TABLE BY A LICENSED CARD-ROOM CONTRACTOR; LIMITING THE PAYOUT ON CERTAIN PROMOTIONAL GAMES OF CHANCE; LIMITING SPORTS POOLS TO EVENTS INVOLVING NATURAL

PERSONS; CREATING A DISTRIBUTOR'S LICENSE AND A ROUTE OPERATOR'S LICENSE; DEFINING ALLOWABLE COMPENSATION FOR ROUTE OPERATORS; ALLOWING THE SALE OF VIDEO GAMBLING MACHINES BY AN OPERATOR OR LIENHOLDER; REVISING CERTAIN PROVISIONS RELATING TO VIDEO GAMBLING MACHINES; EXPANDING COURT JURISDICTION OVER GAMBLING VIOLATIONS BY YOUTHS; REVISING AMUSEMENT GAME PROVISIONS; AMENDING SECTIONS 2-15-2021, 23-5-112, 23-5-123, 23-5-136, 23-5-152, 23-5-157, 23-5-158, 23-5-160, 23-5-306, 23-5-312, 23-5-317, 23-5-324, 23-5-412, 23-5-501, 23-5-602, 23-5-611, 23-5-625, 23-5-631, 23-6-104, AND 41-5-203, MCA; AND PROVIDING AN APPLICABILITY PROVISION."

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

Section 1. Section 2-15-2021, MCA, is amended to read:

"2-15-2021. Gaming advisory council -- allocation -- composition -- compensation -- biennial report. (1) There is a gaming advisory council.

(2) The gaming advisory council is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(3) The gaming advisory council consists of nine members. One member must be from the senate, and one member must be from the house of representatives. The senate committee on committees and the speaker of the house of

representatives shall appoint the legislative members of the council. The seven remaining members must be appointed by the department, with one representing the public at large, two representing local governments, one being a Native American, and three representing the gaming industry.

(4) Each gaming advisory council member is appointed to a 3-year term of office, ~~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.~~ A member of the council may be removed for good cause by the appointing body provided for in subsection (3).

(5) The gaming advisory council shall appoint a chairman presiding officer from its members.

(6) ~~Legislative members~~ Members of the gaming advisory council are entitled to ~~compensation and expenses, as provided in 5-2-302, while the council is meeting. The remaining members are entitled to~~ travel, meals, and lodging expenses as provided for in 2-18-501 through 2-18-503. A member who is not a full-time salaried officer or employee of the state or of a political subdivision of the state is also entitled to be paid \$25 for each day during which the member is actually and necessarily engaged in the performance of council duties. Expenses of the council must be paid from licensing fees received by the department.

(7) The gaming advisory council shall, within its authorized budget, hold meetings and incur expenses as it considers necessary to study all aspects of gambling in the state.

(8) (a) The gaming advisory council shall submit a biennial report to the department, at a time designated by the department, with recommendations for amendments to the gambling statutes, the need for additional or modified department rules, the clarification of existing rules, and other recommendations on the operation of the department or any other gambling-related matter.

(b) The biennial report required under subsection (8)(a) must be affixed to the report on gambling in the state that the department submits that year. The department and council shall, as provided in 5-11-210, submit the two most recent department and council reports to the legislature.

(c) The council may submit interim reports to the department as the council considers necessary.

(d) The council shall meet with the department upon request of the department.

(e) The department shall meet with the council upon request of the council.

(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."

Section 2. Section 23-5-112, MCA, is amended to read:

"23-5-112. **Definitions.** Unless the context requires otherwise, the following definitions apply to parts 1 through 6 of this chapter:

(1) "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 6 of this chapter.

(2) "Application" means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.

(3) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected by the department and that randomly selects the numbers.

(4) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each letter above one of the

columns. ~~No--more~~ More than 75 numbers may not be used. One number must appear in each square, except for the center square, which may be considered a free play. Numbers are randomly drawn using authorized equipment until the game is won by the person or persons who first cover a one or more previously designated ~~arrangement~~ arrangements of numbers on the bingo card.

(5) "Bingo caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live bingo.

(6) "Card game table" or "table" means a live card game table:

(a) authorized by permit and made available to the public on the premises of a licensed gambling operator; or

(b) operated by a senior citizen center.

(7) "Card game tournament" means a gambling activity for which a permit has been issued involving participants who pay valuable consideration for the opportunity to compete against each other in a series of live card games conducted over a designated period of time.

(8) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

(9) "Department" means the department of justice.

(10) "Distributor" means a person who:

(a) purchases or obtains from ~~another-person~~ a licensed

1 manufacturer, DISTRIBUTOR, OR ROUTE OPERATOR equipment of
2 any kind for use in gambling activities; and

3 (b) ~~sells, leases, or otherwise furnishes~~ the equipment
4 ~~to another person for use in public~~ a licensed distributor,
5 route operator, or operator.

6 (11) "Gambling" or "gambling activity" means risking
7 money, credit, deposit, check, property, or any other thing
8 of value for a gain that is contingent in whole or in part
9 upon lot, chance, or the operation of a gambling device or
10 gambling enterprise. The term does not mean conducting or
11 participating in a promotional game of chance and does not
12 include amusement games regulated by Title 23, chapter 6,
13 part 1.

14 (12) "Gambling device" means a mechanical,
15 electromechanical, or electronic device, machine, slot
16 machine, instrument, apparatus, contrivance, scheme, or
17 system used or intended for use in any gambling activity.

18 (13) "Gambling enterprise" means an activity, scheme, or
19 agreement or an attempted activity, scheme, or agreement to
20 provide gambling or a gambling device to the public.

21 (14) "Gross proceeds" means gross revenue received less
22 prizes paid out.

23 (15) "Illegal gambling device" means a gambling device
24 not specifically authorized by statute or by the rules of
25 the department. The term includes:

1 (a) a ticket or card, by whatever name known,
2 containing concealed numbers or symbols that may match
3 numbers or symbols designated in advance as prize winners,
4 including a pull tab, punchboard, push card, tip board,
5 pickle ticket, break-open, or jar game, except for one used
6 under chapter 7 or under part 5 of this chapter or in a
7 promotional game of chance approved by the department; and

8 (b) an apparatus, implement, or device, by whatever
9 name known, specifically designed to be used in conducting
10 an illegal gambling enterprise, including a faro box, faro
11 layout, roulette wheel, roulette table, or craps table or a
12 slot machine except as provided in 23-5-153.

13 (16) "Illegal gambling enterprise" means a gambling
14 enterprise that violates or is not specifically authorized
15 by a statute or a rule of the department. The term includes:

16 (a) a card game, by whatever name known, involving any
17 bank or fund from which a participant may win money or other
18 consideration and that receives money or other consideration
19 lost by the participant and includes the card games of
20 blackjack, twenty-one, jacks or better, baccarat, or chemin
21 de fer;

22 (b) a dice game, by whatever name known, in which a
23 participant wagers on the outcome of the roll of one or more
24 dice, includes craps, hazard, or chuck-a-luck, but does not
25 include an activity in which a participant rolls one or more

1 dice for a chance to obtain a drink or music; and

2 (c) sports betting, by whatever name known, in which a
3 person places a wager on the outcome of an athletic event,
4 including bookmaking, parlay bets, or sultan sports cards,
5 but not including those activities authorized in chapter 4
6 of this title and parts 2 and 5 of this chapter.

7 (17) "Keno" means a game of chance in which prizes are
8 awarded using a card with 8 horizontal rows and 10 columns
9 on which a player may pick up to 10 numbers. A keno caller,
10 using authorized equipment, shall select at random at least
11 20 numbers out of numbers between 1 and 80, inclusive.

12 (18) "Keno caller" means a person 18 years of age or
13 older who, using authorized equipment, announces the order
14 of the numbers drawn in live keno.

15 (19) "License" means an operator's, dealer's,
16 distributor's, manufacturer's, or manufacturer-distributor's
17 route operator's license issued to a person by the
18 department.

19 (20) "Licensee" means a person who has received a
20 license from the department.

21 (21) "Live card game" or "card game" means a card game
22 that is played in public between persons on the premises of
23 a licensed gambling operator or in a senior citizen center.

24 (22) "Lottery" or "gift enterprise" means a scheme, by
25 whatever name known, for the disposal or distribution of

1 property by chance among persons who have paid or promised
2 to pay valuable consideration for the chance of obtaining
3 the property or a portion of it or for a share or interest
4 in the property upon an agreement, understanding, or
5 expectation that it is to be distributed or disposed of by
6 lot or chance. However, "gift enterprise" does not mean:

7 (a) lotteries authorized under chapter 7; 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 (23) "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 and who sells the equipment directly to a licensed
16 distributor, route operator, or operator.

17 (24) "Nonprofit organization" means a nonprofit
18 corporation or nonprofit charitable, religious, scholastic,
19 educational, veterans', fraternal, beneficial, civic, senior
20 citizens', or service organization established for purposes
21 other than to conduct a gambling activity.

22 (25) "Operator" means a person who purchases, receives,
23 or acquires, by lease or otherwise, and operates or controls
24 for use in public, a gambling device or gambling enterprise
25 authorized under parts 1 through 6 of this chapter.

(26) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 6 of this chapter.

(27) "Person" or "persons" means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

(28) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

(29) "Promotional game of chance" means a scheme, by whatever name known, for the disposal or distribution of property by-chance among persons who have not paid or are not expected to pay any valuable consideration or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the property, a portion of it, or a share in it. The property is disposed of or distributed by simulating a gambling enterprise authorized by parts 1 through 8 of this chapter or by operating a device OR ENTERPRISE approved by the department that was manufactured or intended for use for purposes other than gambling.

(30) "Public gambling" means gambling conducted in:

(a) a place, building, or conveyance to which the public has access or may be permitted to have access;

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization; or

(c) a place, building, or conveyance to which the public does not have access if players are publicly solicited or the gambling activity is conducted in a predominantly commercial manner.

(31) "Raffle" means a form of lottery in which each participant pays valuable consideration for a ticket to become eligible to win a prize. Winners must be determined by a random selection process approved by department rule.

(32) "Route operator" means a person who:

(a) purchases from a licensed manufacturer, ROUTE OPERATOR, or distributor equipment of any kind for use in a gambling activity;

(b) leases the equipment to a licensed operator for use by the public; and

(c) may sell to a licensed operator equipment that had previously been authorized to be operated on a premises.

~~(32)~~(33) "Senior citizen center" means a facility operated by a nonprofit or governmental organization that provides services to senior citizens in the form of daytime

or evening educational or recreational activities and does not provide living accommodations to senior citizens. Services qualifying under this definition must be recognized in the state plan on aging adopted by the department of family services.

~~{33}~~{34} "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. This definition does not apply to video gambling machines authorized under part 6 of this chapter.

~~{34}~~{35} "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department."

Section 3. Section 23-5-123, MCA, is amended to read:

"23-5-123. Disposal of money confiscated by reason of violation of gambling laws. All fines, penalties, forfeitures, and confiscated money collected by criminal,

civil, or administrative process for a violation of a provision of parts 1 through 6 of this chapter or a rule of the department must be deposited--one-half--in--the--state general--fund--and--one-half--in--the--general--fund--of--the--county in--which--the--violation--occurred distributed as follows:

(1) Funds collected through a criminal proceeding must be distributed according to 3-10-601 or 46-18-235.

(2) One-third of the funds collected through a civil or administrative proceeding must be deposited in the state special revenue account maintained for funds used by the department in administering parts 1 through 8 of this chapter and related rules. The remainder must be distributed to the county treasurer or the clerk, financial officer, or treasurer of the city or town in which the violation occurred for deposit in the county or municipal treasury. A county is not entitled to a penalty payment if the violation occurred in an incorporated city or town within the county."

Section 4. Section 23-5-136, MCA, is amended to read:

"23-5-136. Injunction and other remedies. (1) If 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) upon clear and convincing evidence, issue a temporary order to cease and desist from the gambling

activity, act, or practice for a period not to exceed 60 days;

(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 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) The department may issue a warrant for distraint against an operator who fails to pay a civil penalty imposed under subsection (1) or a tax imposed under 23-5-409 or 23-5-610. The department may issue the warrant for the amount of the unpaid penalty or for the amount of the unpaid tax, plus penalty and accumulated interest on the tax, and shall follow the procedures provided in 15-1-701 through 15-1-708.

(3) (a) A civil penalty imposed under this section must be collected by the department and distributed as provided in 23-5-123. The local government portion of the penalty payment is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury.

(b) 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."

NEW SECTION. **Section 5.** Evidence in administrative proceedings. When conducting an administrative proceeding under parts 1 through 8 of this chapter, the department may

admit--into-the-record-and-give-probative-effect-to-evidence
 that--possesses--probative--value---commonly---accepted---by
 reasonably---prudent---persons. CONSIDER HEARSAY EVIDENCE
APPROVED BY THE HEARING EXAMINER IN A PREHEARING CONFERENCE
AT WHICH A DETERMINATION IS MADE THAT THE EVIDENCE POSSESSES
SUFFICIENT GUARANTIES OF TRUSTWORTHINESS AND DOES NOT
INVOLVE A QUESTION OF THE CREDIBILITY OF A WITNESS OR OF THE
CREDIBILITY OF A WITNESS'S SUBJECTIVE OBSERVATIONS OR
ANALYSIS.

Section 6. Section 23-5-152, MCA, is amended to read:

"23-5-152. Possession of illegal gambling device or
 conducting illegal gambling enterprise prohibited --
 exceptions. (1) Except as provided in 23-5-153 and
 subsections (2) through (4) of this section, it is a
 misdemeanor punishable under 23-5-161 for a person to
 purposely or knowingly:

(a) have in ~~his~~ the person's possession or under ~~his~~
the person's control or permit to be placed, maintained, or
 kept in any room, space, enclosure, or building owned,
 leased, or occupied by him or under ~~his~~ the person's
 management or control an illegal gambling device; or

(b) operate an illegal gambling enterprise.

(2) Subsection (1) does not apply to a public officer
 or to a person coming into possession of an illegal gambling
 device in or by reason of the performance of an official

duty and holding it to be disposed of according to law.

(3) (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.

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

(c) A person licensed under subsection (3) may bring an
 illegal gambling device into the state ~~after-notifying if:~~

(i) the illegal gambling device contains a component
that will be used by the licensee to manufacture an illegal
gambling device for export from the state; or

(ii) the illegal gambling device will be reconditioned,
refurbished, repaired, or otherwise substantially modified
in preparation for export from the state; and

(III) THE ILLEGAL GAMBLING DEVICE WILL BE EXPORTED FROM
THE STATE; AND

~~{iii}~~(IV) the licensee has notified the department and
receiving received authorization from the department to
bring the illegal gambling device into the state. The person
licensee is subject to reporting requirements provided for
 in rules adopted under subsection (3)(a).

(4) An illegal gambling device may be possessed or located for display purposes only and not for operation:

(a) in a public or private museum; or

(b) in any other public place if the device has been made permanently inoperable for purposes of conducting a gambling activity."

Section 7. Section 23-5-157, MCA, is amended to read:

"23-5-157. Gambling on cash basis. (1) In every gambling activity, except raffles as authorized in 23-5-413, the consideration paid for the chance to play must be cash. A participant shall present the money needed to play the game as the game is being played. A 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. 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.

(2) A person who violates this section is guilty of:

(a) a misdemeanor ~~if the total amount of credit extended or received on a single occasion or as part of a common scheme as defined in 45-2-101 exceeds \$300 or less~~ and must be punished in accordance with 23-5-161; or

(b) a felony ~~if the total amount of credit extended or received on a single occasion or as part of a common scheme~~

~~as defined in 45-2-101 exceeds \$300~~ UPON CONVICTION OF A THIRD OR SUBSEQUENT OFFENSE and must be punished in accordance with 23-5-162."

Section 8. Section 23-5-158, MCA, is amended to read:

"23-5-158. Minors not to participate -- penalty -- exception. (1) Except as provided in subsection (2) (3), a person may not purposely or knowingly allow a person under 18 years of age to participate in a gambling activity. A person who violates this subsection is guilty of a misdemeanor and must be punished in accordance with 23-5-161.

(2) Except as provided in subsection (3), a person under 18 years of age may not purposely or knowingly participate in a gambling activity. A person who violates this subsection is subject to a civil penalty not to exceed \$50 if the proceedings for violating this subsection are held in justice's, municipal, or city court. If the proceedings are held in youth court, the offender must be treated as an alleged youth in need of supervision, as defined in 41-5-103. The youth court may enter its judgment under 41-5-523.

(2)(3) A person under 18 years of age may sell or buy tickets for or receive prizes from a raffle conducted in compliance with 23-5-413 if proceeds from the raffle, minus administrative expenses and prizes paid, are used to support

charitable activities, scholarships or educational grants, or community service projects."

Section 9. Section 23-5-160, MCA, is amended to read:

"23-5-160. Shaking dice for a drink or music or in a shake-a-day game. (1) It is legal for a customer in an establishment licensed for the sale of alcoholic beverages to be consumed on the premises to:

(a) shake or choose one or more dice, alone or with an owner or employee of the establishment, to determine whether the customer or the establishment shall pay for the customer's drink or to determine whether the customer or the establishment shall immediately pay a predetermined amount of money, not to exceed \$2, for music from a jukebox in the establishment; or

(b) play the dice game commonly known as shake-a-day, in which a customer may once each day pay an amount of money predetermined by the establishment, but not more than 50 cents, and shake a number of dice predetermined by the establishment in an attempt to roll a certain combination combinations simulating a poker hand hands predetermined by the establishment and--if, If one of the combination combinations is rolled, the customer may win merchandise or a portion or all of the money paid to play the game since the last winning combination was rolled. The establishment may, before a game begins, limit the amount that will be won

and use the remaining money played on that game to start the pot for the next game, thus enhancing the incentive to play the next game in the early stages of the next game. All money paid to play games must be paid out as winnings. An establishment may offer to the public more than one shake-a-day game at any given time.

(2) Nothing in this section authorizes the dice game of craps or any other dice game not specifically described in this section."

Section 10. Section 23-5-306, MCA, is amended to read:

"23-5-306. (Temporary) Live card game table -- permit -- fees -- disposition of fees. (1) A person who has been granted an operator's license under 23-5-177 and a license to sell alcoholic beverages for consumption on the premises may be granted an annual permit for the placement of live card game tables. 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.

(2) The annual permit fee in lieu of taxes for each live card game table operated in a licensed operator's

premises may not be prorated and must be:

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

(b) \$500 for each additional table.

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

(4) Except as provided in subsection (5), the department shall forward on a quarterly basis the remaining balance of the fee collected under subsection (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. A county is not entitled to proceeds from fees assessed on live card game tables located in 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.

(5) On June 30, 1993, the department shall transfer to the general fund the remaining fund balance from the account funded by this section. (Terminates July 1, 1993--sec. 2, Ch. 18, Sp. L. January 1992.)

23-5-306. (Effective July 1, 1993) Live card game table -- permit -- fees -- disposition of fees. (1) (a) A person who has been granted an operator's license under 23-5-177

and a license to sell alcoholic beverages for consumption on the premises may be granted an annual permit for the placement of live card game tables.

(b) The department may issue an annual permit for the placement of live card game tables to a person operating a premises not licensed to sell alcoholic beverages for consumption on the premises if:

(i) If one or more live card game tables were legally operated on a the premises on January 15, 1989, and the premises were not on that date licensed under 16-4-401(2) but;

(ii) the premises were licensed on that date January 15, 1989, 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;

(iii) the person has been granted an operator's license under 23-5-177; and

(iv) at the time of application for the permit:

(A) the person has continuously operated a live card game table on the premises since January 15, 1989; and

(B) the natural person or persons who own the business operated on the premises are the same as on January 15, 1989.

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

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

(b) \$500 for each additional table.

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

(4) The department shall forward on a quarterly basis the remaining balance of the fee collected under subsection (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. A county is not entitled to proceeds from fees assessed on live card game tables located in 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."

Section 11. Section 23-5-312, MCA, is amended to read:

"23-5-312. Prizes not to exceed three hundred dollars.

(1) A prize for an individual live card game may not exceed the value of \$300. Games may not be combined in any manner so as to increase the value of the ultimate prize awarded. Except during a tournament conducted under 23-5-317, all

prizes must be awarded immediately upon completion of each hand.

(2) If a licensed operator conducts a promotional game of chance involving a live card game, the prize limit provided for in subsection (1) applies to prizes awarded as a result of the promotional game of chance."

Section 12. Section 23-5-317, MCA, is amended to read:

"23-5-317. Tournaments. (1) Subject to the department's approval, a licensed operator who has a permit for placing at least 1 live card game table on his the operator's premises may conduct up to 12 live card game tournaments a year on his premises. Each tournament may be conducted for no more than 5 consecutive days. If an operator conducts more than one tournament a year, at least 7 days must lapse between the conclusion of one tournament and the beginning of the next tournament.

(2) (a) Before the start of a tournament, the operator shall submit to the department an application for a tournament permit. The permit application must be accompanied by a \$10 fee. The department shall retain the fee for administrative purposes.

(b) If a tournament is to be conducted on the premises of more than one licensed operator, each operator shall submit a permit application and processing fee. The permit is applied toward each operator's annual 12-tournament

1 limit.

2 (3) Permits for placement of additional live card game
3 tables, as provided in 23-5-306, are not required for
4 additional tables authorized under a tournament permit.

5 (4) Tournament participants must be provided with a
6 copy of the tournament rules before the start of the
7 tournament. A copy of the rules must be posted in a
8 conspicuous location in each area where the tournament is
9 conducted.

10 (5) A person must be present on the premises during the
11 tournament to oversee the conduct of the card games and to
12 settle disputes among players. This person may be a dealer
13 licensed under 23-5-308.

14 (6) Only a dealer licensed under 23-5-308 may deal
15 cards at a poker or panguingue tournament.

16 ~~(6)~~(7) A licensed operator may charge a tournament
17 participant an entry fee, which may include a fee to cover
18 expenses incurred in conducting the tournament. A
19 participant who has been eliminated from competition during
20 the tournament may reenter the tournament by paying an
21 additional fee if permitted to do so under tournament rules.
22 A rake-off may not be taken during a tournament card game.

23 ~~(7)~~(8) The face value of the chips used does not govern
24 the value of the pot awarded at the end of the tournament.

25 ~~(8)~~(9) The provisions of this part and the department

1 rules governing live card games apply to live card games
2 conducted as part of a tournament unless otherwise
3 provided."

4 ~~Section 13. Section 23-5-324, MCA, is amended to read:--~~

5 ~~"23-5-324. Card-room contractor's license-----fee----~~
6 ~~submission-of-contract--(1)--It-is-a-misdemeanor-for-a-person~~
7 ~~to-enter-into-a-contract-with-a-licensed-operator-to-operate~~
8 ~~one-or-more-live-card-game-tables-on-the-operator's-premises~~
9 ~~without--obtaining-a-card-room-contractor's-license-from-the~~
10 ~~department.~~

11 ~~(2)--The-department-shall-charge-an-annual--license--fee~~
12 ~~of--\$150--for--issuing--or-renewing-a-card-room-contractor's~~
13 ~~license--The--department---shall---retain---the---fee---for~~
14 ~~administrative-purposes.~~

15 ~~(3)--The---applicant---shall---submit--at--the--time--of~~
16 ~~application-for-a-card-room-contractor's-license-a--copy--of~~
17 ~~the-agreement-entered-into-with-the-licensed-operator.~~

18 ~~(4)--Operation--of--a-live-card-room-table-by-a-licensed~~
19 ~~card-room-contractor-does-not-relieve-an-operator--of--civil~~
20 ~~or--criminal--liability-for-a-violation-of-parts-1-through-8~~
21 ~~of-this-chapter-or-of-department-rules-that--occurs--on--the~~
22 ~~operator's-premises."~~

23 **Section 13.** Section 23-5-412, MCA, is amended to read:

24 "23-5-412. Card prices and prizes -- exception. (1)
25 Except as provided in subsection (3):

1 (a) the price for an individual bingo or keno card game
2 CARD may not exceed 50 cents;

3 (b) a prize may not exceed the value of \$100 for each
4 individual bingo award GAME or keno card game CARD; and

5 (c) it is unlawful to, in any manner, combine any
6 awards bingo or keno games so as to increase the ultimate
7 value of the award prize.

8 (2) Bingo and keno prizes may be paid in either
9 tangible personal property or cash.

10 (3) A variation of the game of keno, as approved by the
11 department, in which a player selects three or more numbers
12 and places a wager on various combinations of these numbers
13 is permissible if:

14 (a) no more than 50 cents is wagered on each
15 combination of numbers; and

16 (b) a winning combination does not pay more than \$100.

17 (4) A player may give a keno caller a card with
18 instructions on the card to play that card and its marked
19 numbers for up to the number of successive games that the
20 house allows and that the player has indicated on the card,
21 upon payment of the price per game times the number of
22 successive games indicated. The player shall remain on the
23 house premises until the card is played or withdrawn. The
24 caller shall keep the card until the end of the number of
25 games indicated, and the department may by rule provide that

1 at that time the caller shall pay the player any prizes won.

2 (5) If a licensed operator conducts a promotional game
3 of chance involving bingo or keno, the prize limit provided
4 for in subsection (1) applies to prizes awarded as a result
5 of the promotional game of chance."

6 **SECTION 14. SECTION 23-5-501, MCA, IS AMENDED TO READ:**

7 "23-5-501. Definitions. As used in this part, unless
8 the context clearly requires otherwise, the following
9 definitions apply:

10 (1) "Sports pool" means a gambling activity, other than
11 an activity governed under chapter 4 or chapter 5, part 2,
12 of this title, in which a person wagers money for each
13 chance to win money or other items of value based on the
14 outcome of a sports event or series of sports events wherein
15 the competitors in the sports event or series of sports
16 events are natural persons ~~or animals~~.

17 (2) "Sports tab" means a folded or banded ticket with a
18 face covered to conceal a combination of two numbers, with
19 each number ranging from zero through nine.

20 (3) "Sports tab game" means a gambling enterprise
21 conducted on a card to which 100 sports tabs are attached
22 that have 100 different combinations for which consideration
23 in money is paid by the person purchasing each tab. A person
24 may purchase a sports tab from the card for the chance to
25 win money or other items of value on a sports event as

provided in 23-5-503."

NEW SECTION. Section 15. Distributor's license --
fees. (1) It is a misdemeanor for a person to conduct
business as a distributor without first obtaining a
distributor's license from the department.

(2) THE EXCEPT AS PROVIDED IN SUBSECTION (6), THE
department shall charge an annual license fee of \$1,000 for
issuing or renewing a distributor's license. The department
shall retain the fee for administrative purposes.

(3) A distributor's license expires June 30 of each
year, and the license fee may not be prorated.

(4) Except as provided in subsection (6), the
department may charge an additional, one-time license
application processing fee to cover the actual cost of
processing the original license. The department shall refund
any amount of the application processing fee not needed to
reimburse the department for actual costs or shall collect
an amount sufficient to reimburse the department for actual
costs not completely covered by the initial fee charged.

(5) The department shall retain for administrative
purposes the license and application processing fees
collected under this section.

(6) The department may waive THE LICENSE FEE PROVIDED
FOR IN SUBSECTION (2) IF THE APPLICANT IS LICENSED AS A
MANUFACTURER OR ROUTE OPERATOR AND MAY WAIVE the application

processing fee provided for in subsection (4) if the
applicant is licensed as a manufacturer, route operator, or
operator.

NEW SECTION. Section 16. Route operator's license --
fees. (1) It is a misdemeanor for a person to conduct
business as a route operator without first obtaining a route
operator's license from the department.

(2) THE EXCEPT AS PROVIDED IN SUBSECTION (6), THE
department shall charge an annual license fee of \$1,000 for
issuing or renewing a route operator's license. The
department shall retain the fee for administrative purposes.

(3) A route operator's license expires June 30 of each
year, and the license fee may not be prorated.

(4) Except as provided in subsection (6), the
department may charge an additional, one-time license
application processing fee to cover the actual cost of
processing the original license. The department shall refund
any amount of the application processing fee not needed to
reimburse the department for actual costs or shall collect
an amount sufficient to reimburse the department for actual
costs not completely covered by the initial fee charged.

(5) The department shall retain for administrative
purposes the license and application processing fees
collected under this section.

(6) The department may waive THE LICENSE FEE PROVIDED

FOR IN SUBSECTION (2) IF THE APPLICANT IS LICENSED AS A
 MANUFACTURER OR DISTRIBUTOR AND MAY WAIVE the application
 processing fee provided for in subsection (4) if the
 applicant is licensed as a manufacturer, distributor, or
 operator.

NEW SECTION. Section 17. Allowable compensation for
 route operator. The compensation that a licensed route
 operator may receive for leasing a video gambling machine to
 a licensed operator is limited to a set fee or a percentage
 of gross machine income, or both a set fee and percentage
 amount. The route operator may not assume responsibility for
 any expenses of the operator's business except for expenses
 associated with:

- (1) paying video gambling machine permit fees and taxes;
- (2) conducting video gambling machine promotional activities;
- (3) maintaining and repairing video gambling machines;
- (4) supplying funds to allow an operator to exchange a player's money for other coin or currency for operating a video gambling machine AND TO PAY OUT PRIZES WON BY PLAYERS;
- (5) providing accounting and recordkeeping services for video gambling machines; and
- (6) other activities, if allowed by department rule.

Section 18. 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 gambling machine, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, metering devices, and cabinetry.

(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 directly dispenses coins, cash, tokens, or anything else of value.

(3) "Draw poker machine" means an electronic video gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker 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 directly

dispenses coins, cash, tokens, or anything else of value.

(4) "Gross income" means money put into a video gambling machine minus credits paid out in cash.

(5) "Keno machine" means an electronic video gambling machine that, upon insertion of cash, is available to play keno 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 directly dispenses coins, cash, tokens, or anything else of value.

(6) "Video gambling machine manufacturer distributor" means a person who assembles, produces, makes, or supplies video gambling machines or associated equipment for sale, use, or distribution in the state.

Section 19. Section 23-5-611, MCA, is amended to read:

"23-5-611. Machine permit qualifications. Limitations. (1) (a) A person who has been granted an operator's license under 23-5-177 and a license to sell alcoholic beverages for consumption on the premises may be granted a permit for the placement of video gambling machines in his the premises.

(b) 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 to sell alcoholic beverages for consumption on the premises or operated for the principal purpose of gaming and there is an operator's license for the premises under 23-5-177, 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 the machines on those premises on that date, subject to the provisions of subsection (1)(d).

(c) A person who legally operated an establishment on January 15, 1989, for the principal purpose of gaming and has been granted an operator's license under 23-5-177 may be granted a permit for the placement of bingo and keno machines in his on the premises, subject to the provisions of subsection (1)(d).

(d) The department may issue an annual permit under subsection (1)(b) or (1)(c) if at the time of application for the permit:

(i) the person has continuously operated the video gambling machine on the premises since January 15, 1989, and
(ii) the natural person or persons who own the business operated on the premises are the same as on January 15, 1989.

(2) An applicant for a permit shall disclose on the application form to the department any information required

by--the--department--consistent--with--the---provisions---of
23-5-176.

{3}--A--licensee--may--not--have-on-the-premises-or-make
available-for-play-on-the-premises-more-than-20-machines--of
any-combination."

Section 19. Section 23-5-625, MCA, is amended to read:

"23-5-625. Video gambling machine
manufacturer-distributor manufacturer -- license -- fees --
restrictions. (1) {a}-Except-as-provided-in-subsections--{2}
and--{3},--it It is unlawful for any person to assemble,
produce, or manufacture,--or--supply any video gambling
machine or associated equipment for use or play in the state
without having first been issued a video gambling machine
manufacturer-distributor's manufacturer's license by the
department. A licensed manufacturer-distributor manufacturer
may supply a video gambling machine only to another licensed
manufacturer-distributor manufacturer or to a licensed
distributor, route operator, or operator.

{b}{2} The EXCEPT AS PROVIDED IN SUBSECTION (6), THE
department shall charge an annual license fee of \$1,000 for
the issuance or renewal of a video gambling machine
manufacturer-distributor's manufacturer's license.

{c}{3} In--addition--to--other--license--fees Except as
provided in subsection (6), the department may charge the
applicant a an additional, one-time video gambling machine

manufacturer-distributor's manufacturer's license
application processing fee. The application processing fee
may not exceed the department's actual costs for processing
an application.

{d}{4} All video gambling machine
manufacturer-distributor's manufacturer's licenses expire on
June 30 of each year, and the license fee may not be
prorated.

{e}{5} The department shall retain the license and
processing fees collected for purposes of administering this
part, unless otherwise provided.

{2}-A-licensed-operator--who--is--not--licensed--as--a
manufacturer-distributor--may--sell--up-to-20-video-gambling
machines-in-a-calendar-year-if-the-operator:

{a}-had-obtained-permits-for-the-machines--and--legally
operated-them-prior-to-the-sale;-and

{b}-sells--the-machines-to-another-licensed-operator-or
a-licensed-manufacturer-distributor;

{3}-A-lienholder-who-acquires-title-to--video--gambling
machines--through--a-foreclosure-action-involving-a-licensed
operator-or-manufacturer-distributor-may-sell--the--machines
to-a-licensed-operator-or-licensed-manufacturer-distributor.

{6} The department may waive THE LICENSE FEE PROVIDED
FOR IN SUBSECTION (2) IF THE APPLICANT IS LICENSED AS A
DISTRIBUTOR OR ROUTE OPERATOR AND MAY WAIVE the application

processing fee provided for in subsection (3) if the applicant is licensed as a distributor, route operator, or operator."

NEW SECTION. Section 20. Sale of video gambling machines by operator or lienholder. (1) A licensed operator who is not licensed as a manufacturer, distributor, or route operator may sell up to 20 video gambling machines in a calendar year if the operator:

(a) had obtained permits for the machines and legally operated them prior to the sale; and

(b) sells the machines to another licensed operator or to a licensed manufacturer, distributor, or route operator.

(2) A lienholder who acquires title to video gambling machines through a foreclosure action involving a licensed manufacturer, distributor, route operator, or operator may sell the machines to a licensed manufacturer, distributor, route operator, or operator.

Section 21. Section 23-5-631, MCA, is amended to read:

"23-5-631. Examination and approval of new video gambling machines and associated equipment -- fee. (1) The department shall examine and may approve a new video gambling machine and or associated equipment or a modification to an approved machine or associated equipment which-are that is manufactured, sold, or distributed for use in the state before the video gambling machine or associated

equipment is sold, played, or used.

(2) A video gambling machine or associated equipment or a modification to an approved machine or associated equipment may not be examined or approved by the department until the video gambling machine manufacturer-distributor manufacturer is licensed as required in 23-5-625.

(3) All video gambling machines or associated equipment approved by the department of commerce prior to October 1, 1989, must be considered approved under this part.

(4) The department shall require the manufacturer-distributor manufacturer seeking the examination and approval of a new video gambling machine or associated equipment or a modification to an approved machine or associated equipment to pay the anticipated actual costs of the examination in advance and, after the completion of the examination, shall refund overpayments or charge and collect amounts sufficient to reimburse the department for underpayments of actual costs.

(5) Payments received under subsection (4) are statutorily appropriated to the department, as provided in 17-7-502, to defray the costs of examining and approving video gambling machines and associated equipment and modifications to approved machines and associated equipment and to issue refunds for overpayments.

(6) The department may inspect and test and approve,

disapprove, or place a condition upon a video gambling machine or associated equipment or a modification to an approved machine or associated equipment prior to its distribution and placement for play by the public."

Section 22. Section 23-6-104, MCA, is amended to read:

"23-6-104. Amusement games allowed. (1) Crane games, as defined in 23-6-101, and the games described in subsection (2) may be made available for public play.

(2) (a) Fish pond (duck pond). The player catches a fish or other object floating in a pond of water by using a pole, hand, net, or string. All fish or objects are marked on the bottom, indicating the size of prize the player wins. The player is awarded a prize each time, and the player must be allowed to continue playing until a prize is won.

(b) Hoop or ring toss. The player tosses a hoop or ring over a target that must consist of bottles, pegs, blocks, or prizes. The operator shall specifically advise the player as to the degree that the hoop or ring must go over the target. All hoops of the same color used at an individual stand must be the same size. All targets used at an individual booth must be the same size, or the operator shall advise the player by posting signs or using color codes denoting the different sizes.

(c) Dart games. The target area for all dart games must be of a material capable of being penetrated and of

retaining a metal tip dart. The target area must be in the rear of the stand and must be at least 3 feet but not more than 15 feet from the foul line. A target must be stationary at all times.

(i) Balloon (poparoo) (balloon smash). The targets are inflated balloons. The player throws one or more darts to burst a predetermined number of balloons. If the predetermined number of balloons are burst by the darts, the player receives the prize indicated.

(ii) Dart throw. The targets are various sizes and shapes located on the target area. The player throws darts individually at the target. A dart must stick in a predetermined target to win the prize as designated.

(iii) Tic tac toe dart. The target is a tic tac toe board located in the target area. The player throws darts at the target and wins a designated prize when the thrown darts line up in a row in the target. The darts may line up vertically, horizontally, or diagonally to win.

(iv) Add-um-up darts. The target consists of numbered squares located in the target area. Prizes are awarded based on the total score obtained by the player by throwing and sticking the darts in the numbered squares. A dart that sticks on a line must be thrown again. The player may add up the score of the darts thrown.

(d) Ball tosses. In all ball toss games, the balls used

1 at a specific stand must be of the same weight and size.
 2 Targets must be of the same weight and size, or the operator
 3 shall color code the targets and advise the player of the
 4 difference in targets by posting a sign or providing a
 5 duplicate of the target showing the limitations or
 6 restrictions. The sign or duplicate target must be readily
 7 visible to the player.

8 (i) Milk bottle toss. The player tosses or throws balls
 9 at simulated milk bottles. The player wins by either tipping
 10 over or knocking bottles off the raised platform as
 11 designated by the operator. The bottles may be constructed
 12 of wood, metal, or plastic or a combination of the three.
 13 Operators may vary the number of bottles and balls used in
 14 each game. Floating or loose weights in bottles are not
 15 allowed. The weight of individual bottles may not exceed 7
 16 1/2 pounds.

17 (ii) Milk can (Mexican hat) (cone). The player tosses a
 18 ball into the opening of a milk can, into a fiberglass
 19 Mexican hat turned upside down, or through a cone to win.

20 (iii) Football toss (tire toss). The player tosses or
 21 throws a football through a stationary tire or hoop to win.

22 (iv) Basketball toss/throw. The player tosses or throws
 23 a basketball through a hoop to win.

24 (v) Bushel baskets. The player tosses balls into a
 25 bushel basket mounted on a stationary backdrop at a fixed

1 angle. The balls must stay in the basket to win. Rim shots
 2 are allowed, except the operator may designate the top 6
 3 inches of the basket rim by color and disallow balls
 4 striking this area as winning tosses.

5 (vi) Cat-ball-toss (star/diamond toss). The player
 6 tosses balls into a simulated cat's mouth or a round,
 7 diamond, or star-shaped hole to win.

8 (vii) Ping pong toss. The player tosses ping pong balls
 9 into dishes, saucers, cups, or ashtrays floating in water. A
 10 predetermined number of balls must remain in the dishes,
 11 saucers, cups, or ashtrays for the player to win. The
 12 dishes, saucers, cups, or ashtrays must have water covering
 13 the bottom of the surface that is facing up.

14 (viii) Fishbowl game. The player tosses ping pong balls
 15 into a water-filled fish bowl to win.

16 (ix) Volleyball toss (soccer ball). The player tosses a
 17 volley or soccer ball into a keg-type container mounted on a
 18 stationary backdrop at a fixed angle. The ball must stay in
 19 the keg to win a prize. Rim shots are authorized as stated
 20 in subsection (2)(d)(v) for bushel baskets.

21 (x) Goblet ball (whiffle ball). The player tosses a
 22 whiffle ball into a target area of glass or plastic goblets.
 23 Located in the target area are colored goblets that
 24 determine the type of prize the player wins. At least 33% of
 25 the goblets in the target area must be winners. The ball

1 must stay in the goblet to win a prize.

2 (xi) Break the plate/bottle. The player tosses or throws
3 a ball at a plate, phonograph record, or bottle. The type of
4 prize won is determined by the number of targets broken by
5 the player.

6 (xii) Punk rack. The targets for this game are rows of
7 dolls or cats on a ledge at the rear of the stand. The dolls
8 or cats must be filled with sawdust, styrofoam, cotton, or
9 other like material that provides a firm base for the ball
10 to strike. The hair protruding from the side of the dolls or
11 cats may not exceed 3 inches. The prize is determined by how
12 many dolls or cats the player knocks over or off the ledge,
13 as posted by the operator.

14 (xiii) Teeth game. The target consists of a large face
15 with wooden teeth. The prize is determined by how many teeth
16 the player knocks down by throwing a ball.

17 (xiv) Toilet game (doniker). To win, the player tosses
18 or throws a ball or other object through a toilet seat
19 located at the rear of the stand.

20 (xv) Coke roll. The player rolls a ball down an alley
21 with the object of knocking over two coke bottles standing
22 at the end of the alley. The player must tip over both
23 bottles to win. Bottles must be placed on predetermined
24 spots painted on the surface of the alley.

25 (xvi) Rolldown. The player rolls balls down an alley

1 with the object of putting the balls in numbered slots at
2 the end of the alley. The scores represented by the balls in
3 each numbered slot are added up at the conclusion of the
4 game. Scores above or below a predetermined score win. The
5 alley surface must be smooth and free from defects at all
6 times.

7 (xvii) Fascination (I got it). Fascination is a group
8 game that involves competition among the players. The target
9 area consists of 25 holes, and the player tosses or rolls a
10 ball into one of the holes. The object of the game is to get
11 five balls in a row either vertically, horizontally, or
12 diagonally. The first player to accomplish this is the
13 winner. Prize size is determined by the number of players
14 participating in each game.

15 ~~{xviii}-Cakewalk-The-players-walk-on-a-predetermined~~
16 ~~route-with-designated-spots-and-when-the-operator-stops-the~~
17 ~~walk-the-player-on-a-predetermined-spot-wins-a-prize~~

18 ~~{xix}~~(xviii) Batter-up. The player uses a whiffle ball
19 bat to swing and strike whiffle balls that are pitched at
20 medium speed from a pitching machine. The player wins when
21 he the player hits a ball into the home run shelf. The home
22 run shelf is located at the back of the batting cage
23 approximately 15 feet from the player.

24 ~~{xx}~~(xix) Sky bowling. Two bowling pins are set on
25 predetermined painted spots on a shelf. A ball is attached

to a chain suspended from a stationary support at least 6 inches to the right or left of the bowling pins. The object is to swing the ball, miss the pins with the ball as it goes forward, and knock the pins over as the ball returns.

~~(xxii)~~ (xx) Clown rolldown. A ball is tossed through the open mouth of a moving clown or animal head. The ball then rolls down a chute to numbered slots at the rear of the clown or animal head. The scores represented by the balls in each numbered slot are added up at the conclusion of the game. Prizes are awarded on the points achieved.

~~(xxiii)~~ (xxi) Skee ball. The player rolls a ball up the mechanical bowling alley into targets. A computer adds up the scores, and the predetermined scores win.

~~(xxiiii)~~ (xxii) Speedball radar game. The player gets four balls and throws three balls through radar to establish speeds and to estimate at what speed the fourth ball will pass through the radar. The player wins a prize if he the player accurately estimates the speed of the fourth ball. The radar must be mounted and stationary.

(e) Shooting games. These games are conducted by the player using a weapon of some type to shoot at a target in the rear of the stand. The safety requirements of local city or county ordinances must be observed by the operator and player. The target may be stationary or mobile.

(i) Short range (shooting gallery). In this game, the

player is given four rounds to shoot at a spot target 1/4 inch or less in diameter. The player wins when the spot target is completely shot out, or the player is given five rounds to shoot one round each at five triangular, round, or 1/2-inch square targets. The prize is determined by the number of targets struck by the player, or the player is given five rounds to shoot one round each at five triangular, round, or 1/2-inch square targets. Within each target is a bull's eye. The player must hit the bull's eye without touching the outer surface of the target. The prize is determined by the number of bull's eyes correctly hit.

(ii) Shoot-out-the-star (machine gun). The player, using an automatic air pellet gun, is given 100 pellets to shoot at a star-shaped target. The player must shoot out all of the target to win. The star cannot be more than 1 1/4 inches from point-to-point.

(iii) Water racer. This group game involves a competition, with the player winning a prize based on the number of players competing. The player, using a water pistol, shoots the water into a target. The water that strikes the target causes a balloon to inflate or advances an object to ring a bell. The first player who bursts the balloon or rings the bell is the winner.

(iv) Rapid fire. This group game involves competition similar to the water racer game described in subsection

1 (2)(e)(iii). The player uses an electronic pistol to shoot
2 at a target. Hits on the target give the player a score. The
3 first player to reach a predetermined score is the winner.

4 (v) Cork gallery. The player uses a cork gun or similar
5 device to propel objects, including but not limited to
6 corks, suction cup darts, or styrofoam balls, to shoot at
7 targets located on a shelf or at a bull's eye target. The
8 player must hit the bull's eye or knock the target over or
9 off the shelf to win a prize. The prize is determined by the
10 target knocked over or off the shelf, by the number of
11 targets knocked over or off the shelf, or by the player
12 accomplishing other tasks, as stated in the posted rules.
13 When suction cup darts or other darts are used and fail to
14 stay on or in the target, the player must shoot the dart
15 again. The base of each target must be uniform, front and
16 rear.

17 (vi) Boomball. The player uses a cannon with compressed
18 air to propel balls into a target area. The targets have
19 varied point value. If the ball remains in the target, a
20 computer adds up the score. Prizes are awarded based on the
21 points achieved.

22 (f) Coin pitchers.

23 (i) Spot pitch (lucky strike). The player pitches a
24 coin at colored spots located on a table in the center of
25 the stand. The coin must touch or stay inside of a spot to

1 win a prize.

2 (ii) Plate pitch. The player pitches a coin onto a glass
3 plate to win a prize as designated.

4 (iii) Glass pitch (bowl). The player pitches a coin into
5 or onto dishes or glasses. If the coin remains in a top
6 target glass item, then the player wins that item.

7 (g) Cakewalk. The players walk on a predetermined route
8 with designated spots, and when the operator stops the walk,
9 the player on a predetermined spot wins a prize.

10 (g)(h) Miscellaneous games.

11 (i) Skill chute (bulldozer) (penny fall).

12 (A) The games in each of the following sentences
13 require the The player inserts to insert a coin or token
14 into a chute, aiming the coin or token so that it will fall
15 in front of a continuous sweeper (bulldozer) operating on a
16 playing field containing additional coins, tokens, or
17 merchandise. if-the A coin or-token that is aimed correctly
18 the will cause a sweeper (bulldozer) will operating on a
19 playing field containing additional coins to push additional
20 tokens--or--prizes coins into a counting mechanism that will
21 convert the coins into tokens or tickets and dispense them
22 to the player. A token that is aimed correctly will cause a
23 sweeper (bulldozer) operating on a playing field containing
24 additional tokens or merchandise to push the tokens or
25 merchandise into a hole or chute that sends them to the

1 player. A token that is aimed correctly will cause a sweeper
2 (bulldozer) operating on a playing field containing
3 additional tokens to push tokens into a hole or chute that
4 sends them to the player or pushes tokens into a counting
5 mechanism that will convert the tokens into tickets and
6 dispense them to the player.

7 (B) Tokens--are--exchanged--for--prizes---if-there-is-a
8 hidden There may not be a ledge, tip, or similar obstruction
9 that inhibits the passage of coins, tokens, or prizes
10 merchandise into the counting mechanism, hole, or chute that
11 ~~sends--them-to-the-player; the operator shall post a sign to~~
12 ~~advise the players.~~

13 (ii) Tip-em-up bottle. The player is provided with a
14 pole and a string that has a hoop or ring attached at the
15 end. The player, using the pole with a ring, must raise a
16 bottle lying on its side to an upright position to win.

17 (iii) Hi-striker. The player, using a wooden maul, must
18 strike a lever target that causes a metal weight to rise on
19 a guideline or track and ring a bell. The player must ring
20 the bell a predetermined number of times to win a prize.

21 (iv) Rope ladder. The player must climb up a rope
22 ladder, which is anchored at both ends by a swivel, and ring
23 a bell or buzzer to win a prize.

24 (v) Whac-a-mole. This is a group game that has a target
25 surface with five holes through which animated moles pop up

1 and down at random. The player must hit as many moles as
2 possible with a mallet. The first player to hit a
3 predetermined number of moles wins.

4 (vi) Dip bowling game. The player rolls a bowling-type
5 ball over a hump in the track. If the ball stays on the back
6 side of the hump, the player wins.

7 (vii) Horserace derby. This is a group game in which a
8 player advances his a horse by shooting or rolling a ball in
9 the target area. The faster and more skillfully the player
10 shoots or rolls his a ball, the faster his the player's
11 horse will run. The first horse to cross the finish line
12 wins.

13 (viii) Shuffleboard. The player pushes a puck down a
14 shuffleboard alley to knock over poly pins at the end of an
15 alley. The player wins by knocking down all the pins.

16 (ix) Bean bag. The player tosses or throws a bean bag or
17 a simulated bean bag at cans, bottles, or other objects on a
18 raised platform. The player wins a prize when he either
19 knocks the object off the raised platform or tips the target
20 over.

21 (x) Soccer kick. The player kicks a soccer ball through
22 a hole in the target area to win.

23 (xi) Frog game. A plastic frog or similar object sits on
24 a small end of a teeter-totter. The opposite end of the
25 teeter-totter is struck with a mallet, causing the frog to

fly off the teeter-totter. If the frog lands in a pail or similar receptacle, the player wins a prize.

(xii) Cover the spot. The object of this game is for the player to drop five circular discs onto a circular spot, completely covering the spot. The diameter of each of the discs used to cover the spot must be a minimum of 64% of the diameter of the spot to be covered. The spot to be covered must be painted or drawn on a permanent, solid material, such as metal or wood, or may be a lighted circle. The spot and each disc must have a uniform diameter.

(xiii) Pocket billiards. Using a regulation pocket billiard table, a player must run a consecutive number of balls to win a prize. The number of balls is set by the operator."

Section 23. Section 41-5-203, MCA, is amended to read:

"41-5-203. Jurisdiction of the court. (1) Except as provided in subsection (2), the court has exclusive original jurisdiction of all proceedings under the Montana Youth Court Act in which a youth is alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of care or concerning any person under 21 years of age charged with having violated any law of the state or ordinance of any city or town other than a traffic or fish and game law prior to having become 18 years of age.

(2) Justice, municipal, and city courts have concurrent

jurisdiction with the youth court over all alcoholic beverage and gambling violations alleged to have been committed by a youth."

NEW SECTION. Section 24. Codification instruction. [Sections 5, 15 through 17, and 21 20] are intended to be codified as an integral part of Title 23, chapter 5, and the provisions of Title 23, chapter 5, apply to [sections 5, 15 through 17, and 21 20].

NEW SECTION. Section 25. Applicability. [Section 17] applies to agreements entered into after October 1, 1993.

-End-

HOUSE BILL NO. 411

INTRODUCED BY R. JOHNSON, YELLOWTAIL, WANZENRIED

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE PUBLIC GAMBLING AND AMUSEMENT GAME LAWS OF MONTANA; REVISING THE COMPENSATION FOR GAMING ADVISORY COUNCIL MEMBERS; REVISING THE DEFINITIONS OF BINGO, DISTRIBUTOR, LICENSE, MANUFACTURER, AND PROMOTIONAL GAME OF CHANCE; REVISING THE METHOD FOR DISTRIBUTING FINES, PENALTIES, AND FORFEITURES; REQUIRING THE DEPARTMENT OF JUSTICE TO HAVE CLEAR AND CONVINCING EVIDENCE BEFORE ISSUING A TEMPORARY CEASE AND DESIST ORDER; STATING THE TYPES OF EVIDENCE TO BE PRESENTED DURING AN ADMINISTRATIVE PROCEEDING; DEFINING CONDITIONS UNDER WHICH AN ILLEGAL GAMBLING DEVICE MAY BE BROUGHT INTO THE STATE FOR EXPORT PURPOSES; PROVIDING PENALTIES FOR CREDIT GAMBLING AND UNDERAGE GAMBLING VIOLATIONS; REVISING SHAKE-A-DAY PROVISIONS; CLARIFYING PROVISIONS REGARDING THE GRANTING OF CERTAIN GAMBLING PERMITS TO PERSONS WITHOUT ON-PREMISES CONSUMPTION ALCOHOLIC BEVERAGES LICENSES; REVISING CARD GAME TOURNAMENT PROVISIONS; PROVIDING THAT AN OPERATOR IS ALSO LIABLE FOR A VIOLATION INVOLVING OPERATION OF A LIVE-CARD-ROOM-TABLE BY A LICENSED CARD-ROOM CONTRACTOR; LIMITING THE PAYOUT ON CERTAIN PROMOTIONAL GAMES OF CHANCE; LIMITING SPORTS POOLS TO EVENTS INVOLVING NATURAL

PERSONS; CREATING A DISTRIBUTOR'S LICENSE AND A ROUTE OPERATOR'S LICENSE; DEFINING ALLOWABLE COMPENSATION FOR ROUTE OPERATORS; ALLOWING THE SALE OF VIDEO GAMBLING MACHINES BY AN OPERATOR OR LIENHOLDER; REVISING CERTAIN PROVISIONS RELATING TO VIDEO GAMBLING MACHINES; EXPANDING COURT JURISDICTION OVER GAMBLING VIOLATIONS BY YOUTHS; REVISING AMUSEMENT GAME PROVISIONS; AMENDING SECTIONS 2-15-2021, 23-5-112, 23-5-123, 23-5-136, 23-5-152, 23-5-157, 23-5-158, 23-5-160, 23-5-306, 23-5-312, 23-5-317, 23-5-324, 23-5-412, 23-5-501, 23-5-602, 23-5-611, 23-5-625, 23-5-631, 23-6-104, AND 41-5-203, MCA; AND PROVIDING AN APPLICABILITY PROVISION."

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

Section 1. Section 2-15-2021, MCA, is amended to read:

"2-15-2021. Gaming advisory council -- allocation -- composition -- compensation -- biennial report. (1) There is a gaming advisory council.

(2) The gaming advisory council is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(3) The gaming advisory council consists of nine members. One member must be from the senate, and one member must be from the house of representatives. The senate committee on committees and the speaker of the house of

representatives shall appoint the legislative members of the council. The seven remaining members must be appointed by the department, with one representing the public at large, two representing local governments, one being a Native American, and three representing the gaming industry.

(4) Each gaming advisory council member is appointed to a 3-year term of office~~7--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.~~ A member of the council may be removed for good cause by the appointing body provided for in subsection (3).

(5) The gaming advisory council shall appoint a chairman presiding officer from its members.

(6) ~~Legislative-members~~ Members of the gaming advisory council are entitled to ~~compensation--and--expenses,--as provided--in--5-2-382,--while--the--council--is-meeting,--The remaining-members-are-entitled-to~~ travel, meals, and lodging expenses as provided for in 2-18-501 through 2-18-503. A member who is not a full-time salaried officer or employee of the state or of a political subdivision of the state is also entitled to be paid \$25 for each day during which the member is actually and necessarily engaged in the performance of council duties. Expenses of the council must be paid from licensing fees received by the department.

(7) The gaming advisory council shall, within its authorized budget, hold meetings and incur expenses as it considers necessary to study all aspects of gambling in the state.

(8) (a) The gaming advisory council shall submit a biennial report to the department, at a time designated by the department, with recommendations for amendments to the gambling statutes, the need for additional or modified department rules, the clarification of existing rules, and other recommendations on the operation of the department or any other gambling-related matter.

(b) The biennial report required under subsection (8)(a) must be affixed to the report on gambling in the state that the department submits that year. The department and council shall, as provided in 5-11-210, submit the two most recent department and council reports to the legislature.

(c) The council may submit interim reports to the department as the council considers necessary.

(d) The council shall meet with the department upon request of the department.

(e) The department shall meet with the council upon request of the council.

(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."

Section 2. Section 23-5-112, MCA, is amended to read:

"23-5-112. Definitions. Unless the context requires otherwise, the following definitions apply to parts 1 through 6 of this chapter:

(1) "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 6 of this chapter.

(2) "Application" means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.

(3) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected by the department and that randomly selects the numbers.

(4) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each letter above one of the

columns. No--more More than 75 numbers may not be used. One number must appear in each square, except for the center square, which may be considered a free play. Numbers are randomly drawn using authorized equipment until the game is won by the person or persons who first cover a one or more previously designated arrangement arrangements of numbers on the bingo card.

(5) "Bingo caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live bingo.

(6) "Card game table" or "table" means a live card game table:

(a) authorized by permit and made available to the public on the premises of a licensed gambling operator; or

(b) operated by a senior citizen center.

(7) "Card game tournament" means a gambling activity for which a permit has been issued involving participants who pay valuable consideration for the opportunity to compete against each other in a series of live card games conducted over a designated period of time.

(8) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

(9) "Department" means the department of justice.

(10) "Distributor" means a person who:

(a) purchases or obtains from another-person a licensed

manufacturer, DISTRIBUTOR, OR ROUTE OPERATOR equipment of any kind for use in gambling activities; and

(b) ~~sells, leases, or otherwise furnishes~~ the equipment ~~to another person for use in public~~ a licensed distributor, route operator, or operator.

(11) "Gambling" or "gambling activity" means risking money, credit, deposit, check, property, or any other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling device or gambling enterprise. The term does not mean conducting or participating in a promotional game of chance and does not include amusement games regulated by Title 23, chapter 6, part 1.

(12) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling activity.

(13) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme, or agreement to provide gambling or a gambling device to the public.

(14) "Gross proceeds" means gross revenue received less prizes paid out.

(15) "Illegal gambling device" means a gambling device not specifically authorized by statute or by the rules of the department. The term includes:

(a) a ticket or card, by whatever name known, containing concealed numbers or symbols that may match numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push card, tip board, pickle ticket, break-open, or jar game, except for one used under chapter 7 or under part 5 of this chapter or in a promotional game of chance approved by the department; and

(b) an apparatus, implement, or device, by whatever name known, specifically designed to be used in conducting an illegal gambling enterprise, including a faro box, faro layout, roulette wheel, roulette table, or craps table or a slot machine except as provided in 23-5-153.

(16) "Illegal gambling enterprise" means a gambling enterprise that violates or is not specifically authorized by a statute or a rule of the department. The term includes:

(a) a card game, by whatever name known, involving any bank or fund from which a participant may win money or other consideration and that receives money or other consideration lost by the participant and includes the card games of blackjack, twenty-one, jacks or better, baccarat, or chemin de fer;

(b) a dice game, by whatever name known, in which a participant wagers on the outcome of the roll of one or more dice, includes craps, hazard, or chuck-a-luck, but does not include an activity in which a participant rolls one or more

1 dice for a chance to obtain a drink or music; and

2 (c) sports betting, by whatever name known, in which a
3 person places a wager on the outcome of an athletic event,
4 including bookmaking, parlay bets, or sultan sports cards,
5 but not including those activities authorized in chapter 4
6 of this title and parts 2 and 5 of this chapter.

7 (17) "Keno" means a game of chance in which prizes are
8 awarded using a card with 8 horizontal rows and 10 columns
9 on which a player may pick up to 10 numbers. A keno caller,
10 using authorized equipment, shall select at random at least
11 20 numbers out of numbers between 1 and 80, inclusive.

12 (18) "Keno caller" means a person 18 years of age or
13 older who, using authorized equipment, announces the order
14 of the numbers drawn in live keno.

15 (19) "License" means an operator's, dealer's,
16 distributor's, manufacturer's, or manufacturer-distributor's
17 route operator's license issued to a person by the
18 department.

19 (20) "Licensee" means a person who has received a
20 license from the department.

21 (21) "Live card game" or "card game" means a card game
22 that is played in public between persons on the premises of
23 a licensed gambling operator or in a senior citizen center.

24 (22) "Lottery" or "gift enterprise" means a scheme, by
25 whatever name known, for the disposal or distribution of

1 property by chance among persons who have paid or promised
2 to pay valuable consideration for the chance of obtaining
3 the property or a portion of it or for a share or interest
4 in the property upon an agreement, understanding, or
5 expectation that it is to be distributed or disposed of by
6 lot or chance. However, "gift enterprise" does not mean:

7 (a) lotteries authorized under chapter 7; 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 (23) "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 and who sells the equipment directly to a licensed
16 distributor, route operator, or operator.

17 (24) "Nonprofit organization" means a nonprofit
18 corporation or nonprofit charitable, religious, scholastic,
19 educational, veterans', fraternal, beneficial, civic, senior
20 citizens', or service organization established for purposes
21 other than to conduct a gambling activity.

22 (25) "Operator" means a person who purchases, receives,
23 or acquires, by lease or otherwise, and operates or controls
24 for use in public, a gambling device or gambling enterprise
25 authorized under parts 1 through 6 of this chapter.

(26) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 6 of this chapter.

(27) "Person" or "persons" means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

(28) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

(29) "Promotional game of chance" means a scheme, by whatever name known, for the disposal or distribution of property by-chance among persons who have not paid or are not expected to pay any valuable consideration or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the property, a portion of it, or a share in it. The property is disposed of or distributed by simulating a gambling enterprise authorized by parts 1 through 8 of this chapter or by operating a device OR ENTERPRISE approved by the department that was manufactured or intended for use for purposes other than gambling.

(30) "Public gambling" means gambling conducted in:

(a) a place, building, or conveyance to which the public has access or may be permitted to have access;

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization; or

(c) a place, building, or conveyance to which the public does not have access if players are publicly solicited or the gambling activity is conducted in a predominantly commercial manner.

(31) "Raffle" means a form of lottery in which each participant pays valuable consideration for a ticket to become eligible to win a prize. Winners must be determined by a random selection process approved by department rule.

(32) "Route operator" means a person who:

(a) purchases from a licensed manufacturer, ROUTE OPERATOR, or distributor equipment of any kind for use in a gambling activity;

(b) leases the equipment to a licensed operator for use by the public; and

(c) may sell to a licensed operator equipment that had previously been authorized to be operated on a premises.

~~(32)~~(33) "Senior citizen center" means a facility operated by a nonprofit or governmental organization that provides services to senior citizens in the form of daytime

or evening educational or recreational activities and does not provide living accommodations to senior citizens. Services qualifying under this definition must be recognized in the state plan on aging adopted by the department of family services.

~~{33}~~(34) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. This definition does not apply to video gambling machines authorized under part 6 of this chapter.

~~{34}~~(35) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department."

~~Section 3. Section 23-5-123, MCA, is amended to read:~~

~~"23-5-123. Disposal of money confiscated by reason of violation of gambling laws. All fines, penalties, forfeitures, and confiscated money collected by criminal,~~

~~civil, or administrative process for a violation of a provision of parts 1 through 6 of this chapter or a rule of the department must be deposited one-half in the state general fund and one-half in the general fund of the county in which the violation occurred distributed as follows:~~

~~{1} Funds collected through a criminal proceeding must be distributed according to 3-10-601 or 46-10-235.~~

~~{2} One-third of the funds collected through a civil or administrative proceeding must be deposited in the state special revenue account maintained for funds used by the department in administering parts 1 through 8 of this chapter and related rules. The remainder must be distributed to the county treasurer or the clerk, financial officer, or treasurer of the city or town in which the violation occurred for deposit in the county or municipal treasury. A county is not entitled to a penalty payment if the violation occurred in an incorporated city or town within the county."~~

Section 3. Section 23-5-136, MCA, is amended to read:

"23-5-136. Injunction and other remedies. (1) If 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) upon clear and convincing evidence, issue a temporary order to cease and desist from the gambling

activity, act, or practice for a period not to exceed 60 days;

(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 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) The department may issue a warrant for distraint against an operator who fails to pay a civil penalty imposed under subsection (1) or a tax imposed under 23-5-409 or 23-5-610. The department may issue the warrant for the amount of the unpaid penalty or for the amount of the unpaid tax, plus penalty and accumulated interest on the tax, and shall follow the procedures provided in 15-1-701 through 15-1-708.

(3) (a) A civil penalty imposed under this section must be collected by the department and distributed as provided in 23-5-123. The local government portion of the penalty payment is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury.

(b) 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."

NEW SECTION. **Section 4.** Evidence in administrative proceedings. When conducting an administrative proceeding under parts 1 through 8 of this chapter, the department may

~~admit--into-the-record-and-give-probative-effect-to-evidence
that--possesses--probative--value---commonly---accepted---by
reasonably---prudent---persons; CONSIDER HEARSAY EVIDENCE
APPROVED BY THE HEARING EXAMINER IN A PREHEARING CONFERENCE
AT WHICH A DETERMINATION IS MADE THAT THE EVIDENCE POSSESSES
SUFFICIENT GUARANTIES OF TRUSTWORTHINESS AND DOES NOT
INVOLVE A QUESTION OF THE CREDIBILITY OF A WITNESS OR OF THE
CREDIBILITY OF A WITNESS'S SUBJECTIVE OBSERVATIONS OR
ANALYSIS.~~

Section 5. Section 23-5-152, MCA, is amended to read:

"23-5-152. Possession of illegal gambling device or conducting illegal gambling enterprise prohibited -- exceptions. (1) Except as provided in 23-5-153 and subsections (2) through (4) of this section, it is a misdemeanor punishable under 23-5-161 for a person to purposely or knowingly:

(a) have in his the person's possession or under his the person's control or permit to be placed, maintained, or kept in any room, space, enclosure, or building owned, leased, or occupied by him or under his the person's management or control an illegal gambling device; or

(b) operate an illegal gambling enterprise.

(2) Subsection (1) does not apply to a public officer or to a person coming into possession of an illegal gambling device in or by reason of the performance of an official

duty and holding it to be disposed of according to law.

(3) (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.

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

(c) A person licensed under subsection (3) may bring an illegal gambling device into the state ~~after-notifying if:~~

(i) the illegal gambling device contains a component that will be used by the licensee to manufacture an illegal gambling device for export from the state; or

(ii) the illegal gambling device will be reconditioned, refurbished, repaired, or otherwise substantially modified in preparation for export from the state; and

(III) THE ILLEGAL GAMBLING DEVICE WILL BE EXPORTED FROM THE STATE; AND

~~{+++}~~(IV) the licensee has notified the department and receiving received authorization from the department to bring the illegal gambling device into the state. The person licensee is subject to reporting requirements provided for in rules adopted under subsection (3)(a).

(4) An illegal gambling device may be possessed or located for display purposes only and not for operation:

(a) in a public or private museum; or

(b) in any other public place if the device has been made permanently inoperable for purposes of conducting a gambling activity."

Section 6. Section 23-5-157, MCA, is amended to read:

"23-5-157. Gambling on cash basis. (1) In every gambling activity, except raffles as authorized in 23-5-413, the consideration paid for the chance to play must be cash. A participant shall present the money needed to play the game as the game is being played. A 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. 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.

(2) A person who violates this section is guilty of:

(a) a misdemeanor ~~if the total amount of credit extended or received on a single occasion or as part of a common scheme as defined in 45-2-101 is \$300 or less~~ and must be punished in accordance with 23-5-161; or

(b) a felony ~~if the total amount of credit extended or received on a single occasion or as part of a common scheme~~

~~as defined in 45-2-101 exceeds \$300~~ UPON CONVICTION OF A THIRD OR SUBSEQUENT OFFENSE and must be punished in accordance with 23-5-162."

Section 7. Section 23-5-158, MCA, is amended to read:

"23-5-158. Minors not to participate -- penalty -- exception. (1) Except as provided in subsection (2) (3), a person may not purposely or knowingly allow a person under 18 years of age to participate in a gambling activity. A person who violates this subsection is guilty of a misdemeanor and must be punished in accordance with 23-5-161.

(2) Except as provided in subsection (3), a person under 18 years of age may not purposely or knowingly participate in a gambling activity. A person who violates this subsection is subject to a civil penalty not to exceed \$50 if the proceedings for violating this subsection are held in justice's, municipal, or city court. If the proceedings are held in youth court, the offender must be treated as an alleged youth in need of supervision, as defined in 41-5-103. The youth court may enter its judgment under 41-5-523.

(2)(3) A person under 18 years of age may sell or buy tickets for or receive prizes from a raffle conducted in compliance with 23-5-413 if proceeds from the raffle, minus administrative expenses and prizes paid, are used to support

1 charitable activities, scholarships or educational grants,
2 or community service projects."

3 **Section 8.** Section 23-5-160, MCA, is amended to read:

4 "23-5-160. **Shaking dice for a drink or music or in a**
5 **shake-a-day game.** (1) It is legal for a customer in an
6 establishment licensed for the sale of alcoholic beverages
7 to be consumed on the premises to:

8 (a) shake or choose one or more dice, alone or with an
9 owner or employee of the establishment, to determine whether
10 the customer or the establishment shall pay for the
11 customer's drink or to determine whether the customer or the
12 establishment shall immediately pay a predetermined amount
13 of money, not to exceed \$2, for music from a jukebox in the
14 establishment; or

15 (b) play the dice game commonly known as shake-a-day,
16 in which a customer may once each day pay an amount of money
17 predetermined by the establishment, but not more than 50
18 cents, and shake a number of dice predetermined by the
19 establishment in an attempt to roll a certain combination
20 combinations simulating a poker hand hands predetermined by
21 the establishment and,--if, If one of the combination
22 combinations is rolled, the customer may win merchandise or
23 a portion or all of the money paid to play the game since
24 the last winning combination was rolled. The establishment
25 may, before a game begins, limit the amount that will be won

1 and use the remaining money played on that game to start the
2 pot for the next game, thus enhancing the incentive to play
3 the next game in the early stages of the next game. All
4 money paid to play games must be paid out as winnings. An
5 establishment may offer to the public more than one
6 shake-a-day game at any given time.

7 (2) Nothing in this section authorizes the dice game of
8 craps or any other dice game not specifically described in
9 this section."

10 **Section 9.** Section 23-5-306, MCA, is amended to read:

11 "23-5-306. (Temporary) Live card game table -- permit
12 -- fees -- disposition of fees. (1) A person who has been
13 granted an operator's license under 23-5-177 and a license
14 to sell alcoholic beverages for consumption on the premises
15 may be granted an annual permit for the placement of live
16 card game tables. If one or more live card game tables were
17 legally operated on a premises on January 15, 1989, and the
18 premises were not on that date licensed under 16-4-401(2)
19 but were licensed on that date to sell food, cigarettes, or
20 any other consumable product, an operator's license and an
21 annual permit for the placement of live card game tables may
22 be granted to the person who legally operated the premises
23 on January 15, 1989.

24 (2) The annual permit fee in lieu of taxes for each
25 live card game table operated in a licensed operator's

premises may not be prorated and must be:

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

(b) \$500 for each additional table.

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

(4) Except as provided in subsection (5), the department shall forward on a quarterly basis the remaining balance of the fee collected under subsection (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. A county is not entitled to proceeds from fees assessed on live card game tables located in 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.

(5) On June 30, 1993, the department shall transfer to the general fund the remaining fund balance from the account funded by this section. (Terminates July 1, 1993--sec. 2, Ch. 18, Sp. L. January 1992.)

23-5-306. (Effective July 1, 1993) Live card game table -- permit -- fees -- disposition of fees. (1) (a) A person who has been granted an operator's license under 23-5-177

and a license to sell alcoholic beverages for consumption on the premises may be granted an annual permit for the placement of live card game tables.

(b) The department may issue an annual permit for the placement of live card game tables to a person operating a premises not licensed to sell alcoholic beverages for consumption on the premises if:

(i) If one or more live card game tables were legally operated on a the premises on January 15, 1989, and the premises were not on that date licensed under 16-4-401(2) but;

(ii) the premises were licensed on that date January 15, 1989, 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;

(iii) the person has been granted an operator's license under 23-5-177; and

(iv) at the time of application for the permit:

(A) the person has continuously operated a live card game table on the premises since January 15, 1989; and

(B) the natural person or persons who own the business operated on the premises are the same as on January 15, 1989.

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

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

(b) \$500 for each additional table.

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

(4) The department shall forward on a quarterly basis the remaining balance of the fee collected under subsection (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. A county is not entitled to proceeds from fees assessed on live card game tables located in 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."

Section 10. Section 23-5-312, MCA, is amended to read:

"23-5-312. Prizes not to exceed three hundred dollars.

(1) A prize for an individual live card game may not exceed the value of \$300. Games may not be combined in any manner so as to increase the value of the ultimate prize awarded. Except during a tournament conducted under 23-5-317, all

prizes must be awarded immediately upon completion of each hand.

(2) If a licensed operator conducts a promotional game of chance involving a live card game, the prize limit provided for in subsection (1) applies to prizes awarded as a result of the promotional game of chance."

Section 11. Section 23-5-317, MCA, is amended to read:

"23-5-317. Tournaments. (1) Subject to the department's approval, a licensed operator who has a permit for placing at least 1 live card game table on his the operator's premises may conduct up to 12 live card game tournaments a year on his premises. Each tournament may be conducted for no more than 5 consecutive days. If an operator conducts more than one tournament a year, at least 7 days must lapse between the conclusion of one tournament and the beginning of the next tournament.

(2) (a) Before the start of a tournament, the operator shall submit to the department an application for a tournament permit. The permit application must be accompanied by a \$10 fee. The department shall retain the fee for administrative purposes.

(b) If a tournament is to be conducted on the premises of more than one licensed operator, each operator shall submit a permit application and processing fee. The permit is applied toward each operator's annual 12-tournament

1 limit.

2 (3) Permits for placement of additional live card game
3 tables, as provided in 23-5-306, are not required for
4 additional tables authorized under a tournament permit.

5 (4) Tournament participants must be provided with a
6 copy of the tournament rules before the start of the
7 tournament. A copy of the rules must be posted in a
8 conspicuous location in each area where the tournament is
9 conducted.

10 (5) A person must be present on the premises during the
11 tournament to oversee the conduct of the card games and to
12 settle disputes among players. This person may be a dealer
13 licensed under 23-5-308.

14 (6) Only a dealer licensed under 23-5-308 may deal
15 cards at a poker or panguingue tournament.

16 ~~(6)~~(7) A licensed operator may charge a tournament
17 participant an entry fee, which may include a fee to cover
18 expenses incurred in conducting the tournament. A
19 participant who has been eliminated from competition during
20 the tournament may reenter the tournament by paying an
21 additional fee if permitted to do so under tournament rules.
22 A rake-off may not be taken during a tournament card game.

23 ~~(7)~~(8) The face value of the chips used does not govern
24 the value of the pot awarded at the end of the tournament.

25 ~~(8)~~(9) The provisions of this part and the department

1 rules governing live card games apply to live card games
2 conducted as part of a tournament unless otherwise
3 provided."

4 **Section 13.** ~~Section 23-5-324, MCA, is amended to read:--~~

5 ~~"23-5-324. Card-room-contractor's-license-----fee----~~
6 ~~submission-of-contract--(1)--it-is-a-misdemeanor-for-a-person~~
7 ~~to-enter-into-a-contract-with-a-licensed-operator-to-operate~~
8 ~~one-or-more-live-card-game-tables-on-the-operator's-premises~~
9 ~~without--obtaining-a-card-room-contractor's-license-from-the~~
10 ~~department.~~

11 ~~(2)--The-department-shall-charge-an-annual--license--fee~~
12 ~~of--\$150--for--issuing--or-renewing-a-card-room-contractor's~~
13 ~~license.--The--department--shall--retain--the--fee--for~~
14 ~~administrative-purposes.~~

15 ~~(3)--The--applicant--shall--submit--at--the--time--of~~
16 ~~application-for-a-card-room-contractor's-license-a--copy--of~~
17 ~~the-agreement-entered-into-with-the-licensed-operator.~~

18 ~~(4)--Operation-of-a-live-card-room-table-by-a-licensed~~
19 ~~card-room-contractor-does-not-relieve-an-operator--of--civil~~
20 ~~or--criminal--liability-for-a-violation-of-parts-1-through-8~~
21 ~~of-this-chapter-or-of-department-rules-that--occurs--on--the~~
22 ~~operator's-premises."~~

23 **Section 12.** Section 23-5-412, MCA, is amended to read:

24 "23-5-412. Card prices and prizes -- exception. (1)
25 Except as provided in subsection (3):

(a) the price for an individual bingo or keno card game CARD may not exceed 50 cents;

(b) a prize may not exceed the value of \$100 for each individual bingo award GAME or keno card game CARD; and

(c) it is unlawful to, in any manner, combine any awards bingo or keno games so as to increase the ultimate value of the award prize.

(2) Bingo and keno prizes may be paid in either tangible personal property or cash.

(3) A variation of the game of keno, as approved by the department, in which a player selects three or more numbers and places a wager on various combinations of these numbers is permissible if:

(a) no more than 50 cents is wagered on each combination of numbers; and

(b) a winning combination does not pay more than \$100.

(4) A player may give a keno 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 player shall remain on the house premises until the card is played or withdrawn. 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.

(5) If a licensed operator conducts a promotional game of chance involving bingo or keno, the prize limit provided for in subsection (1) applies to prizes awarded as a result of the promotional game of chance.

SECTION 13. SECTION 23-5-501, MCA, IS AMENDED TO READ:

"23-5-501. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Sports pool" means a gambling activity, other than an activity governed under chapter 4 or chapter 5, part 2, of this title, in which a person wagers money for each chance to win money or other items of value based on the outcome of a sports event or series of sports events wherein the competitors in the sports event or series of sports events are natural persons or animals.

(2) "Sports tab" means a folded or banded ticket with a face covered to conceal a combination of two numbers, with each number ranging from zero through nine.

(3) "Sports tab game" means a gambling enterprise conducted on a card to which 100 sports tabs are attached that have 100 different combinations for which consideration in money is paid by the person purchasing each tab. A person may purchase a sports tab from the card for the chance to win money or other items of value on a sports event as

provided in 23-5-503."

NEW SECTION. Section 14. Distributor's license --
fees. (1) It is a misdemeanor for a person to conduct
 business as a distributor without first obtaining a
 distributor's license from the department.

(2) The EXCEPT AS PROVIDED IN SUBSECTION (6), THE
 department shall charge an annual license fee of \$1,000 for
 issuing or renewing a distributor's license. The department
 shall retain the fee for administrative purposes.

(3) A distributor's license expires June 30 of each
 year, and the license fee may not be prorated.

(4) Except as provided in subsection (6), the
 department may charge an additional, one-time license
 application processing fee to cover the actual cost of
 processing the original license. The department shall refund
 any amount of the application processing fee not needed to
 reimburse the department for actual costs or shall collect
 an amount sufficient to reimburse the department for actual
 costs not completely covered by the initial fee charged.

(5) The department shall retain for administrative
 purposes the license and application processing fees
 collected under this section.

(6) The department may waive THE LICENSE FEE PROVIDED
FOR IN SUBSECTION (2) IF THE APPLICANT IS LICENSED AS A
MANUFACTURER OR ROUTE OPERATOR AND MAY WAIVE the application

processing fee provided for in subsection (4) if the
 applicant is licensed as a manufacturer, route operator, or
 operator.

NEW SECTION. Section 15. Route operator's license --
fees. (1) It is a misdemeanor for a person to conduct
 business as a route operator without first obtaining a route
 operator's license from the department.

(2) The EXCEPT AS PROVIDED IN SUBSECTION (6), THE
 department shall charge an annual license fee of \$1,000 for
 issuing or renewing a route operator's license. The
 department shall retain the fee for administrative purposes.

(3) A route operator's license expires June 30 of each
 year, and the license fee may not be prorated.

(4) Except as provided in subsection (6), the
 department may charge an additional, one-time license
 application processing fee to cover the actual cost of
 processing the original license. The department shall refund
 any amount of the application processing fee not needed to
 reimburse the department for actual costs or shall collect
 an amount sufficient to reimburse the department for actual
 costs not completely covered by the initial fee charged.

(5) The department shall retain for administrative
 purposes the license and application processing fees
 collected under this section.

(6) The department may waive THE LICENSE FEE PROVIDED

1 FOR IN SUBSECTION (2) IF THE APPLICANT IS LICENSED AS A
 2 MANUFACTURER OR DISTRIBUTOR AND MAY WAIVE the application
 3 processing fee provided for in subsection (4) if the
 4 applicant is licensed as a manufacturer, distributor, or
 5 operator.

6 NEW SECTION. Section 16. Allowable compensation for
 7 route operator. The compensation that a licensed route
 8 operator may receive for leasing a video gambling machine to
 9 a licensed operator is limited to a set fee or a percentage
 10 of gross machine income, or both a set fee and percentage
 11 amount. The route operator may not assume responsibility for
 12 any expenses of the operator's business except for expenses
 13 associated with:

- 14 (1) paying video gambling machine permit fees and
- 15 taxes;
- 16 (2) conducting video gambling machine promotional
- 17 activities;
- 18 (3) maintaining and repairing video gambling machines;
- 19 (4) supplying funds to allow an operator to exchange a
- 20 player's money for other coin or currency for operating a
- 21 video gambling machine AND TO PAY OUT PRIZES WON BY PLAYERS;
- 22 (5) providing accounting and recordkeeping services for
- 23 video gambling machines; and
- 24 (6) other activities, if allowed by department rule.

25 **Section 17.** Section 23-5-602, MCA, is amended to read:

1 "23-5-602. Definitions. As used in this part, the
 2 following definitions apply:

3 (1) "Associated equipment" means all proprietary
 4 devices, machines, or parts used in the manufacture or
 5 maintenance of a video gambling machine, including but not
 6 limited to integrated circuit chips, printed wired assembly,
 7 printed wired boards, printing mechanisms, video display
 8 monitors, metering devices, and cabinetry.

9 (2) "Bingo machine" means an electronic video gambling
 10 machine that, upon insertion of cash, is available to play
 11 bingo as defined by rules of the department. The machine
 12 utilizes a video display and microprocessors in which, by
 13 the skill of the player, by chance, or both, the player may
 14 receive free games or credits that may be redeemed for cash.
 15 The term does not include a slot machine or a machine that
 16 directly dispenses coins, cash, tokens, or anything else of
 17 value.

18 (3) "Draw poker machine" means an electronic video
 19 gambling machine that, upon insertion of cash, is available
 20 to play or simulate the play of the game of draw poker as
 21 defined by rules of the department. The machine utilizes a
 22 video display and microprocessors in which, by the skill of
 23 the player, by chance, or both, the player may receive free
 24 games or credits that may be redeemed for cash. The term
 25 does not include a slot machine or a machine that directly

1 dispenses coins, cash, tokens, or anything else of value.

2 (4) "Gross income" means money put into a video
3 gambling machine minus credits paid out in cash.

4 (5) "Keno machine" means an electronic video gambling
5 machine that, upon insertion of cash, is available to play
6 keno as defined by rules of the department. The machine
7 utilizes a video display and microprocessors in which, by
8 the skill of the player, by chance, or both, the player may
9 receive free games or credits that may be redeemed for cash.
10 The term does not include a slot machine or a machine that
11 directly dispenses coins, cash, tokens, or anything else of
12 value.

13 (6)--"Video-gambling-machine-manufacturer-distributor"
14 means--a--person-who-assembles, produces, makes, or supplies
15 video-gambling-machines-or-associated--equipment--for--sale,
16 use, or distribution in the state."

17 **Section 19:** Section 23-5-611, MCA, is amended to read:--

18 "23-5-611--Machine-----permit-----qualifications-----
19 limitations--(1)-(a)--A--person--who--has--been--granted--an
20 operator's--license--under--23-5-177--and--a--license--to--sell
21 alcoholic--beverages--for--consumption--on--the--premises--may--be
22 granted--a--permit--for--the--placement--of--video--gambling
23 machines--in--his the premises;

24 (b)--If--video--keno--or--bingo--gambling--machines--were
25 legally--operated--on--a--premises--on--January--15, 1989, and the

1 premises--were--not--on--that--date--licensed--to--sell--alcoholic
2 beverages--for--consumption--on--the--premises--or--operated--for
3 the--principal--purpose--of--gaming--and--there--is--an--operator's
4 license--for--the--premises--under--23-5-177, a permit for the
5 same--number--of--video--keno--or--bingo--gambling--machines--as--were
6 operated--on--the--premises--on--that--date--may--be--granted--to--the
7 person--who--held--the--permit--for--such the machines on those
8 premises--on--that--date, subject to the provisions--of
9 subsection-(1)(d);

10 (c)--A--person--who--legally--operated--an--establishment--on
11 January--15, 1989, for the principal purpose--of--gaming--and
12 has--been--granted--an--operator's--license--under--23-5-177--may--be
13 granted--a--permit--for--the--placement--of--bingo--and--keno
14 machines--in--his on the premises, subject to the provisions
15 of subsection-(1)(d);

16 (d)--The--department--may--issue--an--annual--permit--under
17 subsection-(1)(b) or (1)(c) if at the time of application
18 for the permit;

19 (i)--the--person--has--continuously--operated--the--video
20 gambling machine on the premises since January 15, 1989, and

21 (ii)--the--natural--person--or--persons--who--own--the--business
22 operated--on--the--premises--are--the--same--as--on--January--15,
23 1989;

24 (2)--An--applicant--for--a--permit--shall--disclose--on--the
25 application--form--to--the--department--any--information--required

1 by--the--department--consistent--with--the---provisions---of
2 23-5-176-

3 {3}--A--licensee--may--not--have-on-the-premises-or-make
4 available-for-play-on-the-premises-more-than-20-machines--of
5 any-combination-"

6 **Section 18.** Section 23-5-625, MCA, is amended to read:

7 "23-5-625. Video gambling machine
8 manufacturer-distributor manufacturer -- license -- fees --
9 restrictions. (1) {a}-Except-as-provided-in-subsections--{2}
10 and--{3}--it It is unlawful for any person to assemble,
11 produce, or manufacture--or--supply any video gambling
12 machine or associated equipment for use or play in the state
13 without having first been issued a video gambling machine
14 manufacturer-distributor's manufacturer's license by the
15 department. A licensed manufacturer-distributor manufacturer
16 may supply a video gambling machine only to another licensed
17 manufacturer-distributor manufacturer or to a licensed
18 distributor, route operator, or operator.

19 {b}{2} The EXCEPT AS PROVIDED IN SUBSECTION (6), THE
20 department shall charge an annual license fee of \$1,000 for
21 the issuance or renewal of a video gambling machine
22 manufacturer-distributor's manufacturer's license.

23 {c}{3} In--addition--to--other--license--fees Except as
24 provided in subsection (6), the department may charge the
25 applicant a an additional, one-time video gambling machine

1 manufacturer-distributor's manufacturer's license
2 application processing fee. The application processing fee
3 may not exceed the department's actual costs for processing
4 an application.

5 {d}{4} All video gambling machine
6 manufacturer-distributor's manufacturer's licenses expire on
7 June 30 of each year, and the license fee may not be
8 prorated.

9 {e}{5} The department shall retain the license and
10 processing fees collected for purposes of administering this
11 part, unless otherwise provided.

12 {2}--A-licensed--operator--who--is--not--licensed--as--a
13 manufacturer-distributor--may--sell--up-to-20-video-gambling
14 machines-in-a-calendar-year-if-the-operator-

15 {a}--had-obtained-permits-for-the-machines--and--legally
16 operated-them-prior-to-the-sale,-and

17 {b}--sells--the-machines-to-another-licensed-operator-or
18 a-licensed-manufacturer-distributor-

19 {3}--A-lienholder-who-acquires-title-to--video--gambling
20 machines--through--a-foreclosure-action-involving-a-licensed
21 operator-or-manufacturer-distributor-may-sell--the--machines
22 to-a-licensed-operator-or-licensed-manufacturer-distributor-

23 (6) The department may waive THE LICENSE FEE PROVIDED
24 FOR IN SUBSECTION (2) IF THE APPLICANT IS LICENSED AS A
25 DISTRIBUTOR OR ROUTE OPERATOR AND MAY WAIVE the application

1 processing fee provided for in subsection (3) if the
 2 applicant is licensed as a distributor, route operator, or
 3 operator."

4 **NEW SECTION. Section 19.** Sale of video gambling
 5 machines by operator or lienholder. (1) A licensed operator
 6 who is not licensed as a manufacturer, distributor, or route
 7 operator may sell up to 20 video gambling machines in a
 8 calendar year if the operator:

9 (a) had obtained permits for the machines and legally
 10 operated them prior to the sale; and

11 (b) sells the machines to another licensed operator or
 12 to a licensed manufacturer, distributor, or route operator.

13 (2) A lienholder who acquires title to video gambling
 14 machines through a foreclosure action involving a licensed
 15 manufacturer, distributor, route operator, or operator may
 16 sell the machines to a licensed manufacturer, distributor,
 17 route operator, or operator.

18 **Section 20.** Section 23-5-631, MCA, is amended to read:

19 "23-5-631. Examination and approval of new video
 20 gambling machines and associated equipment -- fee. (1) The
 21 department shall examine and may approve a new video
 22 gambling machine and or associated equipment or a
 23 modification to an approved machine or associated equipment
 24 which-are that is manufactured, sold, or distributed for use
 25 in the state before the video gambling machine or associated

1 equipment is sold, played, or used.

2 (2) A video gambling machine or associated equipment or
 3 a modification to an approved machine or associated
 4 equipment may not be examined or approved by the department
 5 until the video gambling machine manufacturer-distributor
 6 manufacturer is licensed as required in 23-5-625.

7 (3) All video gambling machines or associated equipment
 8 approved by the department of commerce prior to October 1,
 9 1989, must be considered approved under this part.

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

19 (5) Payments received under subsection (4) are
 20 statutorily appropriated to the department, as provided in
 21 17-7-502, to defray the costs of examining and approving
 22 video gambling machines and associated equipment and
 23 modifications to approved machines and associated equipment
 24 and to issue refunds for overpayments.

25 (6) The department may inspect and test and approve,

disapprove, or place a condition upon a video gambling machine or associated equipment or a modification to an approved machine or associated equipment prior to its distribution and placement for play by the public."

Section 21. Section 23-6-104, MCA, is amended to read:

"23-6-104. Amusement games allowed. (1) Crane games, as defined in 23-6-101, and the games described in subsection (2) may be made available for public play.

(2) (a) Fish pond (duck pond). The player catches a fish or other object floating in a pond of water by using a pole, hand, net, or string. All fish or objects are marked on the bottom, indicating the size of prize the player wins. The player is awarded a prize each time, and the player must be allowed to continue playing until a prize is won.

(b) Hoop or ring toss. The player tosses a hoop or ring over a target that must consist of bottles, pegs, blocks, or prizes. The operator shall specifically advise the player as to the degree that the hoop or ring must go over the target. All hoops of the same color used at an individual stand must be the same size. All targets used at an individual booth must be the same size, or the operator shall advise the player by posting signs or using color codes denoting the different sizes.

(c) Dart games. The target area for all dart games must be of a material capable of being penetrated and of

retaining a metal tip dart. The target area must be in the rear of the stand and must be at least 3 feet but not more than 15 feet from the foul line. A target must be stationary at all times.

(i) Balloon (poparoo) (balloon smash). The targets are inflated balloons. The player throws one or more darts to burst a predetermined number of balloons. If the predetermined number of balloons are burst by the darts, the player receives the prize indicated.

(ii) Dart throw. The targets are various sizes and shapes located on the target area. The player throws darts individually at the target. A dart must stick in a predetermined target to win the prize as designated.

(iii) Tic tac toe dart. The target is a tic tac toe board located in the target area. The player throws darts at the target and wins a designated prize when the thrown darts line up in a row in the target. The darts may line up vertically, horizontally, or diagonally to win.

(iv) Add-um-up darts. The target consists of numbered squares located in the target area. Prizes are awarded based on the total score obtained by the player by throwing and sticking the darts in the numbered squares. A dart that sticks on a line must be thrown again. The player may add up the score of the darts thrown.

(d) Ball tosses. In all ball toss games, the balls used

at a specific stand must be of the same weight and size. Targets must be of the same weight and size, or the operator shall color code the targets and advise the player of the difference in targets by posting a sign or providing a duplicate of the target showing the limitations or restrictions. The sign or duplicate target must be readily visible to the player.

(i) Milk bottle toss. The player tosses or throws balls at simulated milk bottles. The player wins by either tipping over or knocking bottles off the raised platform as designated by the operator. The bottles may be constructed of wood, metal, or plastic or a combination of the three. Operators may vary the number of bottles and balls used in each game. Floating or loose weights in bottles are not allowed. The weight of individual bottles may not exceed 7 1/2 pounds.

(ii) Milk can (Mexican hat) (cone). The player tosses a ball into the opening of a milk can, into a fiberglass Mexican hat turned upside down, or through a cone to win.

(iii) Football toss (tire toss). The player tosses or throws a football through a stationary tire or hoop to win.

(iv) Basketball toss/throw. The player tosses or throws a basketball through a hoop to win.

(v) Bushel baskets. The player tosses balls into a bushel basket mounted on a stationary backdrop at a fixed

angle. The balls must stay in the basket to win. Rim shots are allowed, except the operator may designate the top 6 inches of the basket rim by color and disallow balls striking this area as winning tosses.

(vi) Cat-ball-toss (star/diamond toss). The player tosses balls into a simulated cat's mouth or a round, diamond, or star-shaped hole to win.

(vii) Ping pong toss. The player tosses ping pong balls into dishes, saucers, cups, or ashtrays floating in water. A predetermined number of balls must remain in the dishes, saucers, cups, or ashtrays for the player to win. The dishes, saucers, cups, or ashtrays must have water covering the bottom of the surface that is facing up.

(viii) Fishbowl game. The player tosses ping pong balls into a water-filled fish bowl to win.

(ix) Volleyball toss (soccer ball). The player tosses a volley or soccer ball into a keg-type container mounted on a stationary backdrop at a fixed angle. The ball must stay in the keg to win a prize. Rim shots are authorized as stated in subsection (2)(d)(v) for bushel baskets.

(x) Goblet ball (whiffle ball). The player tosses a whiffle ball into a target area of glass or plastic goblets. Located in the target area are colored goblets that determine the type of prize the player wins. At least 33% of the goblets in the target area must be winners. The ball

1 must stay in the goblet to win a prize.

2 (xi) Break the plate/bottle. The player tosses or throws
3 a ball at a plate, phonograph record, or bottle. The type of
4 prize won is determined by the number of targets broken by
5 the player.

6 (xii) Punk rack. The targets for this game are rows of
7 dolls or cats on a ledge at the rear of the stand. The dolls
8 or cats must be filled with sawdust, styrofoam, cotton, or
9 other like material that provides a firm base for the ball
10 to strike. The hair protruding from the side of the dolls or
11 cats may not exceed 3 inches. The prize is determined by how
12 many dolls or cats the player knocks over or off the ledge,
13 as posted by the operator.

14 (xiii) Teeth game. The target consists of a large face
15 with wooden teeth. The prize is determined by how many teeth
16 the player knocks down by throwing a ball.

17 (xiv) Toilet game (doniker). To win, the player tosses
18 or throws a ball or other object through a toilet seat
19 located at the rear of the stand.

20 (xv) Coke roll. The player rolls a ball down an alley
21 with the object of knocking over two coke bottles standing
22 at the end of the alley. The player must tip over both
23 bottles to win. Bottles must be placed on predetermined
24 spots painted on the surface of the alley.

25 (xvi) Rolldown. The player rolls balls down an alley

1 with the object of putting the balls in numbered slots at
2 the end of the alley. The scores represented by the balls in
3 each numbered slot are added up at the conclusion of the
4 game. Scores above or below a predetermined score win. The
5 alley surface must be smooth and free from defects at all
6 times.

7 (xvii) Fascination (I got it). Fascination is a group
8 game that involves competition among the players. The target
9 area consists of 25 holes, and the player tosses or rolls a
10 ball into one of the holes. The object of the game is to get
11 five balls in a row either vertically, horizontally, or
12 diagonally. The first player to accomplish this is the
13 winner. Prize size is determined by the number of players
14 participating in each game.

15 ~~{xviii} Cakewalk. The players walk on a predetermined~~
16 ~~route with designated spots, and when the operator stops the~~
17 ~~walk, the player on a predetermined spot wins a prize.~~

18 {xix} (xviii) Batter-up. The player uses a whiffle ball
19 bat to swing and strike whiffle balls that are pitched at
20 medium speed from a pitching machine. The player wins when
21 he the player hits a ball into the home run shelf. The home
22 run shelf is located at the back of the batting cage
23 approximately 15 feet from the player.

24 {xx} (xix) Sky bowling. Two bowling pins are set on
25 predetermined painted spots on a shelf. A ball is attached

1 to a chain suspended from a stationary support at least 6
2 inches to the right or left of the bowling pins. The object
3 is to swing the ball, miss the pins with the ball as it goes
4 forward, and knock the pins over as the ball returns.

5 {xxi}{xx} Clown rolldown. A ball is tossed through the
6 open mouth of a moving clown or animal head. The ball then
7 rolls down a chute to numbered slots at the rear of the
8 clown or animal head. The scores represented by the balls in
9 each numbered slot are added up at the conclusion of the
10 game. Prizes are awarded on the points achieved.

11 {xxii}{xxi} Skee ball. The player rolls a ball up the
12 mechanical bowling alley into targets. A computer adds up
13 the scores, and the predetermined scores win.

14 {xxiii}{xxii} Speedball radar game. The player gets four
15 balls and throws three balls through radar to establish
16 speeds and to estimate at what speed the fourth ball will
17 pass through the radar. The player wins a prize if he the
18 player accurately estimates the speed of the fourth ball.
19 The radar must be mounted and stationary.

20 (e) Shooting games. These games are conducted by the
21 player using a weapon of some type to shoot at a target in
22 the rear of the stand. The safety requirements of local city
23 or county ordinances must be observed by the operator and
24 player. The target may be stationary or mobile.

25 (i) Short range (shooting gallery). In this game, the

1 player is given four rounds to shoot at a spot target 1/4
2 inch or less in diameter. The player wins when the spot
3 target is completely shot out, or the player is given five
4 rounds to shoot one round each at five triangular, round, or
5 1/2-inch square targets. The prize is determined by the
6 number of targets struck by the player, or the player is
7 given five rounds to shoot one round each at five
8 triangular, round, or 1/2-inch square targets. Within each
9 target is a bull's eye. The player must hit the bull's eye
10 without touching the outer surface of the target. The prize
11 is determined by the number of bull's eyes correctly hit.

12 (ii) Shoot-out-the-star (machine gun). The player, using
13 an automatic air pellet gun, is given 100 pellets to shoot
14 at a star-shaped target. The player must shoot out all of
15 the target to win. The star cannot be more than 1 1/4 inches
16 from point-to-point.

17 (iii) Water racer. This group game involves a
18 competition, with the player winning a prize based on the
19 number of players competing. The player, using a water
20 pistol, shoots the water into a target. The water that
21 strikes the target causes a balloon to inflate or advances
22 an object to ring a bell. The first player who bursts the
23 balloon or rings the bell is the winner.

24 (iv) Rapid fire. This group game involves competition
25 similar to the water racer game described in subsection

1 (2)(e)(iii). The player uses an electronic pistol to shoot
2 at a target. Hits on the target give the player a score. The
3 first player to reach a predetermined score is the winner.

4 (v) Cork gallery. The player uses a cork gun or similar
5 device to propel objects, including but not limited to
6 corks, suction cup darts, or styrofoam balls, to shoot at
7 targets located on a shelf or at a bull's eye target. The
8 player must hit the bull's eye or knock the target over or
9 off the shelf to win a prize. The prize is determined by the
10 target knocked over or off the shelf, by the number of
11 targets knocked over or off the shelf, or by the player
12 accomplishing other tasks, as stated in the posted rules.
13 When suction cup darts or other darts are used and fail to
14 stay on or in the target, the player must shoot the dart
15 again. The base of each target must be uniform, front and
16 rear.

17 (vi) Boomball. The player uses a cannon with compressed
18 air to propel balls into a target area. The targets have
19 varied point value. If the ball remains in the target, a
20 computer adds up the score. Prizes are awarded based on the
21 points achieved.

22 (f) Coin pitchers.

23 (i) Spot pitch (lucky strike). The player pitches a
24 coin at colored spots located on a table in the center of
25 the stand. The coin must touch or stay inside of a spot to

1 win a prize.

2 (ii) Plate pitch. The player pitches a coin onto a glass
3 plate to win a prize as designated.

4 (iii) Glass pitch (bowl). The player pitches a coin into
5 or onto dishes or glasses. If the coin remains in a top
6 target glass item, then the player wins that item.

7 (g) Cakewalk. The players walk on a predetermined route
8 with designated spots, and when the operator stops the walk,
9 the player on a predetermined spot wins a prize.

10 (g)(h) Miscellaneous games.

11 (i) Skill chute (bulldozer) (penny fall).

12 (A) The games in each of the following sentences
13 require the The player inserts to insert a coin or token
14 into a chute, aiming the coin or token so that it will fall
15 in front of a continuous sweeper (bulldozer) operating on a
16 playing field containing additional coins, tokens, or
17 merchandise. If the A coin or token that is aimed correctly,
18 the will cause a sweeper (bulldozer) with operating on a
19 playing field containing additional coins to push additional
20 tokens--or--prizes coins into a counting mechanism that will
21 convert the coins into tokens or tickets and dispense them
22 to the player. A token that is aimed correctly will cause a
23 sweeper (bulldozer) operating on a playing field containing
24 additional tokens or merchandise to push the tokens or
25 merchandise into a hole or chute that sends them to the

1 player. A token that is aimed correctly will cause a sweeper
 2 (bulldozer) operating on a playing field containing
 3 additional tokens to push tokens into a hole or chute that
 4 sends them to the player or pushes tokens into a counting
 5 mechanism that will convert the tokens into tickets and
 6 dispense them to the player.

7 (B) Tokens--are--exchanged--for--prizes--if--there--is--a
 8 hidden There may not be a ledge, tip, or similar obstruction
 9 that inhibits the passage of coins, tokens, or prizes
 10 merchandise into the counting mechanism, hole, or chute that
 11 sends--them--to--the--player--the--operator--shall--post--a--sign--to
 12 advise--the--players.

13 (ii) Tip-em-up bottle. The player is provided with a
 14 pole and a string that has a hoop or ring attached at the
 15 end. The player, using the pole with a ring, must raise a
 16 bottle lying on its side to an upright position to win.

17 (iii) Hi-striker. The player, using a wooden maul, must
 18 strike a lever target that causes a metal weight to rise on
 19 a guideline or track and ring a bell. The player must ring
 20 the bell a predetermined number of times to win a prize.

21 (iv) Rope ladder. The player must climb up a rope
 22 ladder, which is anchored at both ends by a swivel, and ring
 23 a bell or buzzer to win a prize.

24 (v) Whac-a-mole. This is a group game that has a target
 25 surface with five holes through which animated moles pop up

1 and down at random. The player must hit as many moles as
 2 possible with a mallet. The first player to hit a
 3 predetermined number of moles wins.

4 (vi) Dip bowling game. The player rolls a bowling-type
 5 ball over a hump in the track. If the ball stays on the back
 6 side of the hump, the player wins.

7 (vii) Horserace derby. This is a group game in which a
 8 player advances his a horse by shooting or rolling a ball in
 9 the target area. The faster and more skillfully the player
 10 shoots or rolls his a ball, the faster his the player's
 11 horse will run. The first horse to cross the finish line
 12 wins.

13 (viii) Shuffleboard. The player pushes a puck down a
 14 shuffleboard alley to knock over poly pins at the end of an
 15 alley. The player wins by knocking down all the pins.

16 (ix) Bean bag. The player tosses or throws a bean bag or
 17 a simulated bean bag at cans, bottles, or other objects on a
 18 raised platform. The player wins a prize when he either
 19 knocks the object off the raised platform or tips the target
 20 over.

21 (x) Soccer kick. The player kicks a soccer ball through
 22 a hole in the target area to win.

23 (xi) Frog game. A plastic frog or similar object sits on
 24 a small end of a teeter-totter. The opposite end of the
 25 teeter-totter is struck with a mallet, causing the frog to

1 fly off the teeter-totter. If the frog lands in a pail or
2 similar receptacle, the player wins a prize.

3 (xii) Cover the spot. The object of this game is for the
4 player to drop five circular discs onto a circular spot,
5 completely covering the spot. The diameter of each of the
6 discs used to cover the spot must be a minimum of 64% of the
7 diameter of the spot to be covered. The spot to be covered
8 must be painted or drawn on a permanent, solid material,
9 such as metal or wood, or may be a lighted circle. The spot
10 and each disc must have a uniform diameter.

11 (xiii) Pocket billiards. Using a regulation pocket
12 billiard table, a player must run a consecutive number of
13 balls to win a prize. The number of balls is set by the
14 operator."

15 **Section 22.** Section 41-5-203, MCA, is amended to read:

16 "41-5-203. Jurisdiction of the court. (1) Except as
17 provided in subsection (2), the court has exclusive original
18 jurisdiction of all proceedings under the Montana Youth
19 Court Act in which a youth is alleged to be a delinquent
20 youth, a youth in need of supervision, or a youth in need of
21 care or concerning any person under 21 years of age charged
22 with having violated any law of the state or ordinance of
23 any city or town other than a traffic or fish and game law
24 prior to having become 18 years of age.

25 (2) Justice, municipal, and city courts have concurrent

1 jurisdiction with the youth court over all alcoholic
2 beverage and gambling violations alleged to have been
3 committed by a youth."

4 **NEW SECTION. Section 23. Codification instruction.**
5 [Sections 57-15-through-177-and-21 20 4, 14 THROUGH 16, AND
6 19] are intended to be codified as an integral part of Title
7 23, chapter 5, and the provisions of Title 23, chapter 5,
8 apply to [sections 57-15-through-177-and-21 20 4, 14 THROUGH
9 16, AND 19].

10 **NEW SECTION. Section 24. Applicability.** [Section "17
11 16] applies to agreements entered into after October 1,
12 1993.

-End-

HOUSE STANDING COMMITTEE REPORT

March 9, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 411 (third reading copy - blue) be concurred in as amended.

Signed: _____



Steve Benedict, Chair

And, that such amendments read:

Carried by: Rep. Brandewie

1. Page 5, line 3.

Following: "(2)"

Insert: "(a)"

2. Page 5, line 9.

Following: "advertisement."

Insert: "

(b) The provisions of subsection (2)(a) do not prevent a broker or salesperson from including information on properties listed by other brokers or salespersons who will cooperate with the selling broker or salesperson in materials dispensed to prospective customers.

(c) "

3. Page 5, line 10.

Following: "subsection"

Insert: "(2)"

HOUSE

Committee Vote:

Yes 18, No 0.

SB 411
531248SC.Hss

HOUSE BILL NO. 411

INTRODUCED BY R. JOHNSON, YELLOWTAIL, WANZENRIED

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE PUBLIC GAMBLING AND AMUSEMENT GAME LAWS OF MONTANA; REVISING THE COMPENSATION FOR GAMING ADVISORY COUNCIL MEMBERS; REVISING THE DEFINITIONS OF BINGO, DISTRIBUTOR, LICENSE, MANUFACTURER, AND PROMOTIONAL GAME OF CHANCE; REVISING-THE METHOD-FOR-DISTRIBUTING-PINES, PENALTIES,--AND--FORFEITURES; REQUIRING THE DEPARTMENT OF JUSTICE TO HAVE CLEAR AND CONVINCING EVIDENCE BEFORE ISSUING A TEMPORARY CEASE AND DESIST ORDER; STATING THE TYPES OF EVIDENCE TO BE PRESENTED DURING AN ADMINISTRATIVE PROCEEDING; DEFINING CONDITIONS UNDER WHICH AN ILLEGAL GAMBLING DEVICE MAY BE BROUGHT INTO THE STATE FOR EXPORT PURPOSES; PROVIDING PENALTIES FOR CREDIT GAMBLING AND UNDERAGE GAMBLING VIOLATIONS; REVISING SHAKE-A-DAY PROVISIONS; CLARIFYING PROVISIONS REGARDING THE GRANTING OF CERTAIN GAMBLING PERMITS TO PERSONS WITHOUT ON-PREMISES CONSUMPTION ALCOHOLIC BEVERAGES LICENSES; REVISING CARD GAME TOURNAMENT PROVISIONS; PROVIDING-THAT-AN OPERATOR-IS-ALSO-LIABLE-FOR-A-VIOLATION-INVOLVING--OPERATION OF---A--LIVE--CARD--ROOM--TABLE--BY--A--LICENSED--CARD--ROOM CONTRACTOR; LIMITING THE PAYOUT ON CERTAIN PROMOTIONAL GAMES OF CHANCE; LIMITING SPORTS POOLS TO EVENTS INVOLVING NATURAL

PERSONS; CREATING A DISTRIBUTOR'S LICENSE AND A ROUTE OPERATOR'S LICENSE; DEFINING ALLOWABLE COMPENSATION FOR ROUTE OPERATORS; ALLOWING THE SALE OF VIDEO GAMBLING MACHINES BY AN OPERATOR OR LIENHOLDER; REVISING CERTAIN PROVISIONS RELATING TO VIDEO GAMBLING MACHINES; EXPANDING COURT JURISDICTION OVER GAMBLING VIOLATIONS BY YOUTHS; REVISING AMUSEMENT GAME PROVISIONS; AMENDING SECTIONS 2-15-2021, 23-5-112, 23-5-123, 23-5-136, 23-5-152, 23-5-157, 23-5-158, 23-5-160, 23-5-306, 23-5-312, 23-5-317, 23-5-324, 23-5-412, 23-5-501, 23-5-602, 23-5-611, 23-5-625, 23-5-631, 23-6-104, AND 41-5-203, MCA; AND PROVIDING AN APPLICABILITY PROVISION."

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

Section 1. Section 2-15-2021, MCA, is amended to read:

"2-15-2021. Gaming advisory council -- allocation -- composition -- compensation -- biennial report. (1) There is a gaming advisory council.

(2) The gaming advisory council is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(3) The gaming advisory council consists of nine members. One member must be from the senate, and one member must be from the house of representatives. The senate committee on committees and the speaker of the house of

representatives shall appoint the legislative members of the council. The seven remaining members must be appointed by the department, with one representing the public at large, two representing local governments, one being a Native American, and three representing the gaming industry.

(4) Each gaming advisory council member is appointed to a 3-year term of office--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. A member of the council may be removed for good cause by the appointing body provided for in subsection (3).

(5) The gaming advisory council shall appoint a chairman presiding officer from its members.

(6) ~~Legislative-members~~ Members of the gaming advisory council are entitled to compensation--and--expenses,--as provided--in--5-2-302,--while--the--council--is--meeting,--The remaining-members-are-entitled-to travel, meals, and lodging expenses as provided for in 2-18-501 through 2-18-503. A member who is not a full-time salaried officer or employee of the state or of a political subdivision of the state is also entitled to be paid \$25 for each day during which the member is actually and necessarily engaged in the performance of council duties. Expenses of the council must be paid from licensing fees received by the department.

(7) The gaming advisory council shall, within its authorized budget, hold meetings and incur expenses as it considers necessary to study all aspects of gambling in the state.

(8) (a) The gaming advisory council shall submit a biennial report to the department, at a time designated by the department, with recommendations for amendments to the gambling statutes, the need for additional or modified department rules, the clarification of existing rules, and other recommendations on the operation of the department or any other gambling-related matter.

(b) The biennial report required under subsection (8)(a) must be affixed to the report on gambling in the state that the department submits that year. The department and council shall, as provided in 5-11-210, submit the two most recent department and council reports to the legislature.

(c) The council may submit interim reports to the department as the council considers necessary.

(d) The council shall meet with the department upon request of the department.

(e) The department shall meet with the council upon request of the council.

(9) The department shall give each council member notice and a copy of each proposed change in administrative

1 rules relating to gambling. The notice and copy must be
 2 given at the time a notice of proposed rules changes is
 3 filed with the secretary of state. The council shall review
 4 the proposal, may comment on it, and may attend any hearing
 5 on the proposal. The department shall consider any comment
 6 by any council member or by the council as a whole prior to
 7 adopting the proposed change."

8 **Section 2.** Section 23-5-112, MCA, is amended to read:

9 "23-5-112. Definitions. Unless the context requires
 10 otherwise, the following definitions apply to parts 1
 11 through 6 of this chapter:

12 (1) "Applicant" means a person who has applied for a
 13 license or permit issued by the department pursuant to parts
 14 1 through 6 of this chapter.

15 (2) "Application" means a written request for a license
 16 or permit issued by the department. The department shall
 17 adopt rules describing the forms and information required
 18 for issuance of a license.

19 (3) "Authorized equipment" means, with respect to live
 20 keno or bingo, equipment that may be inspected by the
 21 department and that randomly selects the numbers.

22 (4) "Bingo" means a gambling activity played for prizes
 23 with a card bearing a printed design of 5 columns of 5
 24 squares each, 25 squares in all. The letters B-I-N-G-O must
 25 appear above the design, with each letter above one of the

1 columns. ~~No--more~~ More than 75 numbers may not be used. One
 2 number must appear in each square, except for the center
 3 square, which may be considered a free play. Numbers are
 4 randomly drawn using authorized equipment until the game is
 5 won by the person or persons who first cover a one or more
 6 previously designated arrangement arrangements of numbers on
 7 the bingo card.

8 (5) "Bingo caller" means a person 18 years of age or
 9 older who, using authorized equipment, announces the order
 10 of the numbers drawn in live bingo.

11 (6) "Card game table" or "table" means a live card game
 12 table:

13 (a) authorized by permit and made available to the
 14 public on the premises of a licensed gambling operator; or

15 (b) operated by a senior citizen center.

16 (7) "Card game tournament" means a gambling activity
 17 for which a permit has been issued involving participants
 18 who pay valuable consideration for the opportunity to
 19 compete against each other in a series of live card games
 20 conducted over a designated period of time.

21 (8) "Dealer" means a person with a dealer's license
 22 issued under part 3 of this chapter.

23 (9) "Department" means the department of justice.

24 (10) "Distributor" means a person who:

25 (a) purchases or obtains from another-person a licensed

1 manufacturer, DISTRIBUTOR, OR ROUTE OPERATOR equipment of
2 any kind for use in gambling activities; and

3 (b) ~~sells, leases, or otherwise furnishes~~ the equipment
4 ~~to another person for use in public~~ a licensed distributor,
5 route operator, or operator.

6 (11) "Gambling" or "gambling activity" means risking
7 money, credit, deposit, check, property, or any other thing
8 of value for a gain that is contingent in whole or in part
9 upon lot, chance, or the operation of a gambling device or
10 gambling enterprise. The term does not mean conducting or
11 participating in a promotional game of chance and does not
12 include amusement games regulated by Title 23, chapter 6,
13 part 1.

14 (12) "Gambling device" means a mechanical,
15 electromechanical, or electronic device, machine, slot
16 machine, instrument, apparatus, contrivance, scheme, or
17 system used or intended for use in any gambling activity.

18 (13) "Gambling enterprise" means an activity, scheme, or
19 agreement or an attempted activity, scheme, or agreement to
20 provide gambling or a gambling device to the public.

21 (14) "Gross proceeds" means gross revenue received less
22 prizes paid out.

23 (15) "Illegal gambling device" means a gambling device
24 not specifically authorized by statute or by the rules of
25 the department. The term includes:

1 (a) a ticket or card, by whatever name known,
2 containing concealed numbers or symbols that may match
3 numbers or symbols designated in advance as prize winners,
4 including a pull tab, punchboard, push card, tip board,
5 pickle ticket, break-open, or jar game, except for one used
6 under chapter 7 or under part 5 of this chapter or in a
7 promotional game of chance approved by the department; and

8 (b) an apparatus, implement, or device, by whatever
9 name known, specifically designed to be used in conducting
10 an illegal gambling enterprise, including a faro box, faro
11 layout, roulette wheel, roulette table, or craps table or a
12 slot machine except as provided in 23-5-153.

13 (16) "Illegal gambling enterprise" means a gambling
14 enterprise that violates or is not specifically authorized
15 by a statute or a rule of the department. The term includes:

16 (a) a card game, by whatever name known, involving any
17 bank or fund from which a participant may win money or other
18 consideration and that receives money or other consideration
19 lost by the participant and includes the card games of
20 blackjack, twenty-one, jacks or better, baccarat, or chemin
21 de fer;

22 (b) a dice game, by whatever name known, in which a
23 participant wagers on the outcome of the roll of one or more
24 dice, includes craps, hazard, or chuck-a-luck, but does not
25 include an activity in which a participant rolls one or more

1 dice for a chance to obtain a drink or music; and

2 (c) sports betting, by whatever name known, in which a
3 person places a wager on the outcome of an athletic event,
4 including bookmaking, parlay bets, or sultan sports cards,
5 but not including those activities authorized in chapter 4
6 of this title and parts 2 and 5 of this chapter.

7 (17) "Keno" means a game of chance in which prizes are
8 awarded using a card with 8 horizontal rows and 10 columns
9 on which a player may pick up to 10 numbers. A keno caller,
10 using authorized equipment, shall select at random at least
11 20 numbers out of numbers between 1 and 80, inclusive.

12 (18) "Keno caller" means a person 18 years of age or
13 older who, using authorized equipment, announces the order
14 of the numbers drawn in live keno.

15 (19) "License" means an operator's, dealer's,
16 distributor's, manufacturer's, or manufacturer-distributor's
17 route operator's license issued to a person by the
18 department.

19 (20) "Licensee" means a person who has received a
20 license from the department.

21 (21) "Live card game" or "card game" means a card game
22 that is played in public between persons on the premises of
23 a licensed gambling operator or in a senior citizen center.

24 (22) "Lottery" or "gift enterprise" means a scheme, by
25 whatever name known, for the disposal or distribution of

1 property by chance among persons who have paid or promised
2 to pay valuable consideration for the chance of obtaining
3 the property or a portion of it or for a share or interest
4 in the property upon an agreement, understanding, or
5 expectation that it is to be distributed or disposed of by
6 lot or chance. However, "gift enterprise" does not mean:

7 (a) lotteries authorized under chapter 7; 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 (23) "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 and who sells the equipment directly to a licensed
16 distributor, route operator, or operator.

17 (24) "Nonprofit organization" means a nonprofit
18 corporation or nonprofit charitable, religious, scholastic,
19 educational, veterans', fraternal, beneficial, civic, senior
20 citizens', or service organization established for purposes
21 other than to conduct a gambling activity.

22 (25) "Operator" means a person who purchases, receives,
23 or acquires, by lease or otherwise, and operates or controls
24 for use in public, a gambling device or gambling enterprise
25 authorized under parts 1 through 6 of this chapter.

(26) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 6 of this chapter.

(27) "Person" or "persons" means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

(28) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

(29) "Promotional game of chance" means a scheme, by whatever name known, for the disposal or distribution of property by-chance among persons who have not paid or are not expected to pay any valuable consideration or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the property, a portion of it, or a share in it. The property is disposed of or distributed by simulating a gambling enterprise authorized by parts 1 through 8 of this chapter or by operating a device OR ENTERPRISE approved by the department that was manufactured or intended for use for purposes other than gambling.

(30) "Public gambling" means gambling conducted in:

(a) a place, building, or conveyance to which the public has access or may be permitted to have access;

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization; or

(c) a place, building, or conveyance to which the public does not have access if players are publicly solicited or the gambling activity is conducted in a predominantly commercial manner.

(31) "Raffle" means a form of lottery in which each participant pays valuable consideration for a ticket to become eligible to win a prize. Winners must be determined by a random selection process approved by department rule.

(32) "Route operator" means a person who:

(a) purchases from a licensed manufacturer, ROUTE OPERATOR, or distributor equipment of any kind for use in a gambling activity;

(b) leases the equipment to a licensed operator for use by the public; and

(c) may sell to a licensed operator equipment that had previously been authorized to be operated on a premises.

~~(32)~~(33) "Senior citizen center" means a facility operated by a nonprofit or governmental organization that provides services to senior citizens in the form of daytime

or evening educational or recreational activities and does not provide living accommodations to senior citizens. Services qualifying under this definition must be recognized in the state plan on aging adopted by the department of family services.

~~{33}~~{34} "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. This definition does not apply to video gambling machines authorized under part 6 of this chapter.

~~{34}~~{35} "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department."

~~Section 3. Section 23-5-123, MCA, is amended to read:~~

~~"23-5-123. Disposal of money confiscated by reason of violation of gambling laws. All fines, penalties, forfeitures, and confiscated money collected by criminal,~~

~~civil, or administrative process for a violation of a provision of parts 1 through 6 of this chapter or a rule of the department must be deposited one-half in the state general fund and one-half in the general fund of the county in which the violation occurred distributed as follows:~~

~~{1} Funds collected through a criminal proceeding must be distributed according to 3-10-601 or 46-10-235.~~

~~{2} One-third of the funds collected through a civil or administrative proceeding must be deposited in the state special revenue account maintained for funds used by the department in administering parts 1 through 8 of this chapter and related rules. The remainder must be distributed to the county treasurer or the clerk, financial officer, or treasurer of the city or town in which the violation occurred for deposit in the county or municipal treasury. A county is not entitled to a penalty payment if the violation occurred in an incorporated city or town within the county."~~

Section 3. Section 23-5-136, MCA, is amended to read:

"23-5-136. Injunction and other remedies. (1) If 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) upon clear and convincing evidence, issue a temporary order to cease and desist from the gambling

1 activity, act, or practice for a period not to exceed 60
2 days;

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

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

9 (ii) place a licensee on probation;

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

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

17 (v) impose a civil penalty not to exceed \$10,000 for
18 each violation, whether or not the person is licensed by the
19 department; and

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

22 (c) bring an action in district court for relief
23 against the act or practice. The department may not be
24 required to post a bond. On proper showing, the court may:

25 (i) issue a restraining order, a temporary or permanent

1 injunction, or other appropriate writ;

2 (ii) suspend or revoke a license or permit; and

3 (iii) appoint a receiver or conservator for the
4 defendant or the assets of the defendant.

5 (2) The department may issue a warrant for distraint
6 against an operator who fails to pay a civil penalty imposed
7 under subsection (1) or a tax imposed under 23-5-409 or
8 23-5-610. The department may issue the warrant for the
9 amount of the unpaid penalty or for the amount of the unpaid
10 tax, plus penalty and accumulated interest on the tax, and
11 shall follow the procedures provided in 15-1-701 through
12 15-1-708.

13 (3) (a) A civil penalty imposed under this section must
14 be collected by the department and distributed as provided
15 in 23-5-123. The local government portion of the penalty
16 payment is statutorily appropriated to the department, as
17 provided in 17-7-502, for deposit to the county or municipal
18 treasury.

19 (b) If a person fails to pay the civil penalty, the
20 amount due is a lien on the person's licensed premises and
21 gambling devices in the state and may be recovered by the
22 department in a civil action."

23 NEW SECTION. Section 4. Evidence in administrative
24 proceedings. When conducting an administrative proceeding
25 under parts 1 through 8 of this chapter, the department may

admit--into-the-record-and-give-probative-effect-to-evidence
 that--possesses--probative--value---commonly---accepted---by
 reasonably---prudent---persons: CONSIDER HEARSAY EVIDENCE
APPROVED BY THE HEARING EXAMINER IN A PREHEARING CONFERENCE
AT WHICH A DETERMINATION IS MADE THAT THE EVIDENCE POSSESSES
SUFFICIENT GUARANTIES OF TRUSTWORTHINESS AND DOES NOT
INVOLVE A QUESTION OF THE CREDIBILITY OF A WITNESS OR OF THE
CREDIBILITY OF A WITNESS'S SUBJECTIVE OBSERVATIONS OR
ANALYSIS.

Section 5. Section 23-5-152, MCA, is amended to read:

"23-5-152. Possession of illegal gambling device or
 conducting illegal gambling enterprise prohibited --
 exceptions. (1) Except as provided in 23-5-153 and
 subsections (2) through (4) of this section, it is a
 misdemeanor punishable under 23-5-161 for a person to
 purposely or knowingly:

(a) have in his the person's possession or under his
the person's control or permit to be placed, maintained, or
 kept in any room, space, enclosure, or building owned,
 leased, or occupied by him or under his the person's
 management or control an illegal gambling device; or

(b) operate an illegal gambling enterprise.

(2) Subsection (1) does not apply to a public officer
 or to a person coming into possession of an illegal gambling
 device in or by reason of the performance of an official

duty and holding it to be disposed of according to law.

(3) (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.

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

(c) A person licensed under subsection (3) may bring an
 illegal gambling device into the state after-notifying if:

(i) the illegal gambling device contains a component
that will be used by the licensee to manufacture an illegal
gambling device for export from the state; or

(ii) the illegal gambling device will be reconditioned,
refurbished, repaired, or otherwise substantially modified
in preparation for export from the state; and

(iii) THE ILLEGAL GAMBLING DEVICE WILL BE EXPORTED FROM
THE STATE; AND

~~+++~~(iv) the licensee has notified the department and
receiving received authorization from the department to
bring the illegal gambling device into the state. The person
licensee is subject to reporting requirements provided for
in rules adopted under subsection (3)(a).

(4) An illegal gambling device may be possessed or located for display purposes only and not for operation:

(a) in a public or private museum; or

(b) in any other public place if the device has been made permanently inoperable for purposes of conducting a gambling activity."

Section 6. Section 23-5-157, MCA, is amended to read:

"23-5-157. Gambling on cash basis. (1) In every gambling activity, except raffles as authorized in 23-5-413, the consideration paid for the chance to play must be cash. A participant shall present the money needed to play the game as the game is being played. A 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. 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.

(2) A person who violates this section is guilty of:

(a) a misdemeanor if the total amount of credit extended or received on a single occasion or as part of a common scheme, as defined in 45-2-101, is \$300 or less and must be punished in accordance with 23-5-161; or

(b) a felony if the total amount of credit extended or received on a single occasion or as part of a common scheme

as defined in 45-2-101, exceeds \$300 UPON CONVICTION OF A THIRD OR SUBSEQUENT OFFENSE and must be punished in accordance with 23-5-162."

Section 7. Section 23-5-158, MCA, is amended to read:

"23-5-158. Minors not to participate -- penalty -- exception. (1) Except as provided in subsection (2) (3), a person may not purposely or knowingly allow a person under 18 years of age to participate in a gambling activity. A person who violates this subsection is guilty of a misdemeanor and must be punished in accordance with 23-5-161.

(2) Except as provided in subsection (3), a person under 18 years of age may not purposely or knowingly participate in a gambling activity. A person who violates this subsection is subject to a civil penalty not to exceed \$50 if the proceedings for violating this subsection are held in justice's, municipal, or city court. If the proceedings are held in youth court, the offender must be treated as an alleged youth in need of supervision, as defined in 41-5-103. The youth court may enter its judgment under 41-5-523.

(2)(3) A person under 18 years of age may sell or buy tickets for or receive prizes from a raffle conducted in compliance with 23-5-413 if proceeds from the raffle, minus administrative expenses and prizes paid, are used to support

1 charitable activities, scholarships or educational grants,
2 or community service projects."

3 **Section 8.** Section 23-5-160, MCA, is amended to read:

4 "23-5-160. Shaking dice for a drink or music or in a
5 shake-a-day game. (1) It is legal for a customer in an
6 establishment licensed for the sale of alcoholic beverages
7 to be consumed on the premises to:

8 (a) shake or choose one or more dice, alone or with an
9 owner or employee of the establishment, to determine whether
10 the customer or the establishment shall pay for the
11 customer's drink or to determine whether the customer or the
12 establishment shall immediately pay a predetermined amount
13 of money, not to exceed \$2, for music from a jukebox in the
14 establishment; or

15 (b) play the dice game commonly known as shake-a-day,
16 in which a customer may once each day pay an amount of money
17 predetermined by the establishment, but not more than 50
18 cents, and shake a number of dice predetermined by the
19 establishment in an attempt to roll a certain combination
20 combinations simulating a poker hand hands predetermined by
21 the establishment and--if. If one of the combination
22 combinations is rolled, the customer may win merchandise or
23 a portion or all of the money paid to play the game since
24 the last winning combination was rolled. The establishment
25 may, before a game begins, limit the amount that will be won

1 and use the remaining money played on that game to start the
2 pot for the next game, thus enhancing the incentive to play
3 the next game in the early stages of the next game. All
4 money paid to play games must be paid out as winnings. An
5 establishment may offer to the public more than one
6 shake-a-day game at any given time.

7 (2) Nothing in this section authorizes the dice game of
8 craps or any other dice game not specifically described in
9 this section."

10 **Section 9.** Section 23-5-306, MCA, is amended to read:

11 "23-5-306. (Temporary) Live card game table -- permit
12 -- fees -- disposition of fees. (1) A person who has been
13 granted an operator's license under 23-5-177 and a license
14 to sell alcoholic beverages for consumption on the premises
15 may be granted an annual permit for the placement of live
16 card game tables. If one or more live card game tables were
17 legally operated on a premises on January 15, 1989, and the
18 premises were not on that date licensed under 16-4-401(2)
19 but were licensed on that date to sell food, cigarettes, or
20 any other consumable product, an operator's license and an
21 annual permit for the placement of live card game tables may
22 be granted to the person who legally operated the premises
23 on January 15, 1989.

24 (2) The annual permit fee in lieu of taxes for each
25 live card game table operated in a licensed operator's

premises may not be prorated and must be:

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

(b) \$500 for each additional table.

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

(4) Except as provided in subsection (5), the department shall forward on a quarterly basis the remaining balance of the fee collected under subsection (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. A county is not entitled to proceeds from fees assessed on live card game tables located in 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.

(5) On June 30, 1993, the department shall transfer to the general fund the remaining fund balance from the account funded by this section. (Terminates July 1, 1993--sec. 2, Ch. 18, Sp. L. January 1992.)

23-5-306. (Effective July 1, 1993) Live card game table -- permit -- fees -- disposition of fees. (1) (a) A person who has been granted an operator's license under 23-5-177

and a license to sell alcoholic beverages for consumption on the premises may be granted an annual permit for the placement of live card game tables.

(b) The department may issue an annual permit for the placement of live card game tables to a person operating a premises not licensed to sell alcoholic beverages for consumption on the premises if:

(i) if one or more live card game tables were legally operated on a the premises on January 15, 1989, and the premises were not on that date--licensed--under--16-4-401(2) but;

(ii) the premises were licensed on that date January 15, 1989, 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;

(iii) the person has been granted an operator's license under 23-5-177; and

(iv) at the time of application for the permit:

(A) the person has continuously operated a live card game table on the premises since January 15, 1989; and

(B) the natural person or persons who own the business operated on the premises are the same as on January 15, 1989.

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

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

(b) \$500 for each additional table.

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

(4) The department shall forward on a quarterly basis the remaining balance of the fee collected under subsection (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. A county is not entitled to proceeds from fees assessed on live card game tables located in 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."

Section 10. Section 23-5-312, MCA, is amended to read:

"23-5-312. Prizes not to exceed three hundred dollars.

(1) A prize for an individual live card game may not exceed the value of \$300. Games may not be combined in any manner so as to increase the value of the ultimate prize awarded. Except during a tournament conducted under 23-5-317, all

prizes must be awarded immediately upon completion of each hand.

(2) If a licensed operator conducts a promotional game of chance involving a live card game, the prize limit provided for in subsection (1) applies to prizes awarded as a result of the promotional game of chance."

Section 11. Section 23-5-317, MCA, is amended to read:

"23-5-317. Tournaments. (1) Subject to the department's approval, a licensed operator who has a permit for placing at least 1 live card game table on his the operator's premises may conduct up to 12 live card game tournaments a year on his premises. Each tournament may be conducted for no more than 5 consecutive days. If an operator conducts more than one tournament a year, at least 7 days must lapse between the conclusion of one tournament and the beginning of the next tournament.

(2) (a) Before the start of a tournament, the operator shall submit to the department an application for a tournament permit. The permit application must be accompanied by a \$10 fee. The department shall retain the fee for administrative purposes.

(b) If a tournament is to be conducted on the premises of more than one licensed operator, each operator shall submit a permit application and processing fee. The permit is applied toward each operator's annual 12-tournament

1 limit.

2 (3) Permits for placement of additional live card game
3 tables, as provided in 23-5-306, are not required for
4 additional tables authorized under a tournament permit.

5 (4) Tournament participants must be provided with a
6 copy of the tournament rules before the start of the
7 tournament. A copy of the rules must be posted in a
8 conspicuous location in each area where the tournament is
9 conducted.

10 (5) A person must be present on the premises during the
11 tournament to oversee the conduct of the card games and to
12 settle disputes among players. This person may be a dealer
13 licensed under 23-5-308.

14 (6) Only a dealer licensed under 23-5-308 may deal
15 cards at a poker or panguingue tournament.

16 ~~(6)(7)~~ A licensed operator may charge a tournament
17 participant an entry fee, which may include a fee to cover
18 expenses incurred in conducting the tournament. A
19 participant who has been eliminated from competition during
20 the tournament may reenter the tournament by paying an
21 additional fee if permitted to do so under tournament rules.
22 A rake-off may not be taken during a tournament card game.

23 ~~(7)(8)~~ The face value of the chips used does not govern
24 the value of the pot awarded at the end of the tournament.

25 ~~(8)(9)~~ The provisions of this part and the department

1 rules governing live card games apply to live card games
2 conducted as part of a tournament unless otherwise
3 provided."

4 ~~Section 13. Section 23-5-324, MCA, is amended to read:--~~

5 ~~"23-5-324. Card-room-contractor's-license-----fee----~~
6 ~~submission-of-contract--(1)--it-is-a-misdemeanor-for-a-person~~
7 ~~to-enter-into-a-contract-with-a-licensed-operator-to-operate~~
8 ~~one-or-more-live-card-game-tables-on-the-operator's-premises~~
9 ~~without--obtaining-a-card-room-contractor's-license-from-the~~
10 ~~department.~~

11 ~~(2)--The-department-shall-charge-an-annual--license--fee~~
12 ~~of--\$150--for--issuing--or--renewing--a-card-room-contractor's~~
13 ~~license--The-department--shall--retain--the--fee--for~~
14 ~~administrative-purposes.~~

15 ~~(3)--The---applicant---shall---submit--at--the--time--of~~
16 ~~application-for-a-card-room-contractor's-license-a-copy--of~~
17 ~~the-agreement-entered-into-with-the-licensed-operator.~~

18 ~~(4)--Operation--of--a-live-card-room-table-by-a-licensed~~
19 ~~card-room-contractor-does-not-relieve-an-operator--of--civil~~
20 ~~or--criminal--liability-for-a-violation-of-parts-1-through-6~~
21 ~~of-this-chapter-or-of-department-rules-that--occurs--on--the~~
22 ~~operator's-premises."~~

23 **Section 12.** Section 23-5-412, MCA, is amended to read:

24 "23-5-412. Card prices and prizes -- exception. (1)
25 Except as provided in subsection (3):

(a) the price for an individual bingo or keno card game CARD may not exceed 50 cents;

(b) a prize may not exceed the value of \$100 for each individual bingo award GAME or keno card game CARD; and

(c) it is unlawful to, in any manner, combine any awards bingo or keno games so as to increase the ultimate value of the award prize.

(2) Bingo and keno prizes may be paid in either tangible personal property or cash.

(3) A variation of the game of keno, as approved by the department, in which a player selects three or more numbers and places a wager on various combinations of these numbers is permissible if:

(a) no more than 50 cents is wagered on each combination of numbers; and

(b) a winning combination does not pay more than \$100.

(4) A player may give a keno 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 player shall remain on the house premises until the card is played or withdrawn. 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.

(5) If a licensed operator conducts a promotional game of chance involving bingo or keno, the prize limit provided for in subsection (1) applies to prizes awarded as a result of the promotional game of chance."

SECTION 13. SECTION 23-5-501, MCA, IS AMENDED TO READ:

"23-5-501. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Sports pool" means a gambling activity, other than an activity governed under chapter 4 or chapter 5, part 2, of this title, in which a person wagers money for each chance to win money or other items of value based on the outcome of a sports event or series of sports events wherein the competitors in the sports event or series of sports events are natural persons or animals.

(2) "Sports tab" means a folded or banded ticket with a face covered to conceal a combination of two numbers, with each number ranging from zero through nine.

(3) "Sports tab game" means a gambling enterprise conducted on a card to which 100 sports tabs are attached that have 100 different combinations for which consideration in money is paid by the person purchasing each tab. A person may purchase a sports tab from the card for the chance to win money or other items of value on a sports event as

provided in 23-5-503."

NEW SECTION. Section 14. Distributor's license --
fees. (1) It is a misdemeanor for a person to conduct
 business as a distributor without first obtaining a
 distributor's license from the department.

(2) THE EXCEPT AS PROVIDED IN SUBSECTION (6), THE
 department shall charge an annual license fee of \$1,000 for
 issuing or renewing a distributor's license. The department
 shall retain the fee for administrative purposes.

(3) A distributor's license expires June 30 of each
 year, and the license fee may not be prorated.

(4) Except as provided in subsection (6), the
 department may charge an additional, one-time license
 application processing fee to cover the actual cost of
 processing the original license. The department shall refund
 any amount of the application processing fee not needed to
 reimburse the department for actual costs or shall collect
 an amount sufficient to reimburse the department for actual
 costs not completely covered by the initial fee charged.

(5) The department shall retain for administrative
 purposes the license and application processing fees
 collected under this section.

(6) The department may waive THE LICENSE FEE PROVIDED
FOR IN SUBSECTION (2) IF THE APPLICANT IS LICENSED AS A
MANUFACTURER OR ROUTE OPERATOR AND MAY WAIVE the application

processing fee provided for in subsection (4) if the
 applicant is licensed as a manufacturer, route operator, or
 operator.

NEW SECTION. Section 15. Route operator's license --
fees. (1) It is a misdemeanor for a person to conduct
 business as a route operator without first obtaining a route
 operator's license from the department.

(2) THE EXCEPT AS PROVIDED IN SUBSECTION (6), THE
 department shall charge an annual license fee of \$1,000 for
 issuing or renewing a route operator's license. The
 department shall retain the fee for administrative purposes.

(3) A route operator's license expires June 30 of each
 year, and the license fee may not be prorated.

(4) Except as provided in subsection (6), the
 department may charge an additional, one-time license
 application processing fee to cover the actual cost of
 processing the original license. The department shall refund
 any amount of the application processing fee not needed to
 reimburse the department for actual costs or shall collect
 an amount sufficient to reimburse the department for actual
 costs not completely covered by the initial fee charged.

(5) The department shall retain for administrative
 purposes the license and application processing fees
 collected under this section.

(6) The department may waive THE LICENSE FEE PROVIDED

1 FOR IN SUBSECTION (2) IF THE APPLICANT IS LICENSED AS A
 2 MANUFACTURER OR DISTRIBUTOR AND MAY WAIVE the application
 3 processing fee provided for in subsection (4) if the
 4 applicant is licensed as a manufacturer, distributor, or
 5 operator.

6 NEW SECTION. Section 16. Allowable compensation for
 7 route operator. The compensation that a licensed route
 8 operator may receive for leasing a video gambling machine to
 9 a licensed operator is limited to a set fee or a percentage
 10 of gross machine income, or both a set fee and percentage
 11 amount. The route operator may not assume responsibility for
 12 any expenses of the operator's business except for expenses
 13 associated with:

- 14 (1) paying video gambling machine permit fees and
- 15 taxes;
- 16 (2) conducting video gambling machine promotional
- 17 activities;
- 18 (3) maintaining and repairing video gambling machines;
- 19 (4) supplying funds to allow an operator to exchange a
- 20 player's money for other coin or currency for operating a
- 21 video gambling machine AND TO PAY OUT PRIZES WON BY PLAYERS;
- 22 (5) providing accounting and recordkeeping services for
- 23 video gambling machines; and
- 24 (6) other activities, if allowed by department rule.

25 **Section 17.** Section 23-5-602, MCA, is amended to read:

1 "23-5-602. Definitions. As used in this part, the
 2 following definitions apply:

3 (1) "Associated equipment" means all proprietary
 4 devices, machines, or parts used in the manufacture or
 5 maintenance of a video gambling machine, including but not
 6 limited to integrated circuit chips, printed wired assembly,
 7 printed wired boards, printing mechanisms, video display
 8 monitors, metering devices, and cabinetry.

9 (2) "Bingo machine" means an electronic video gambling
 10 machine that, upon insertion of cash, is available to play
 11 bingo as defined by rules of the department. The machine
 12 utilizes a video display and microprocessors in which, by
 13 the skill of the player, by chance, or both, the player may
 14 receive free games or credits that may be redeemed for cash.
 15 The term does not include a slot machine or a machine that
 16 directly dispenses coins, cash, tokens, or anything else of
 17 value.

18 (3) "Draw poker machine" means an electronic video
 19 gambling machine that, upon insertion of cash, is available
 20 to play or simulate the play of the game of draw poker as
 21 defined by rules of the department. The machine utilizes a
 22 video display and microprocessors in which, by the skill of
 23 the player, by chance, or both, the player may receive free
 24 games or credits that may be redeemed for cash. The term
 25 does not include a slot machine or a machine that directly

dispenses coins, cash, tokens, or anything else of value.

(4) "Gross income" means money put into a video gambling machine minus credits paid out in cash.

(5) "Keno machine" means an electronic video gambling machine that, upon insertion of cash, is available to play keno 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 directly dispenses coins, cash, tokens, or anything else of value.

(6) "Video gambling machine manufacturer distributor" means a person who assembles, produces, makes, or supplies video gambling machines or associated equipment for sale, use, or distribution in the state.

Section 19. Section 23-5-611, MCA, is amended to read:

23-5-611. Machine permit qualifications. (1) (a) A person who has been granted an operator's license under 23-5-177 and a license to sell alcoholic beverages for consumption on the premises may be granted a permit for the placement of video gambling machines in his premises.

(b) 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 to sell alcoholic beverages for consumption on the premises or operated for the principal purpose of gaming and there is an operator's license for the premises under 23-5-177, 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 the machines on those premises on that date, subject to the provisions of subsection (1)(d).

(c) A person who legally operated an establishment on January 15, 1989, for the principal purpose of gaming and has been granted an operator's license under 23-5-177 may be granted a permit for the placement of bingo and keno machines in his premises, subject to the provisions of subsection (1)(d).

(d) The department may issue an annual permit under subsection (1)(b) or (1)(c) if at the time of application for the permit:

(i) the person has continuously operated the video gambling machine on the premises since January 15, 1989, and

(ii) the natural person or persons who own the business operated on the premises are the same as on January 15, 1989.

(2) An applicant for a permit shall disclose on the application form to the department any information required

1 by--the--department--consistent--with--the---provisions---of
2 23-5-176.

3 {3}--A--licensee--may--not--have-on-the-premises-or-make
4 available-for-play-on-the-premises-more-than-20-machines--of
5 any-combination."

6 **Section 18.** Section 23-5-625, MCA, is amended to read:

7 "23-5-625. Video gambling machine
8 manufacturer-distributor manufacturer -- license -- fees --
9 restrictions. (1) {a}--Except-as-provided-in-subsections--{2}
10 and--{3}--it It is unlawful for any person to assemble,
11 produce, or manufacture--or--supply any video gambling
12 machine or associated equipment for use or play in the state
13 without having first been issued a video gambling machine
14 manufacturer-distributor's manufacturer's license by the
15 department. A licensed manufacturer-distributor manufacturer
16 may supply a video gambling machine only to another licensed
17 manufacturer-distributor manufacturer or to a licensed
18 distributor, route operator, or operator.

19 {b}{2} The EXCEPT AS PROVIDED IN SUBSECTION (6), THE
20 department shall charge an annual license fee of \$1,000 for
21 the issuance or renewal of a video gambling machine
22 manufacturer-distributor's manufacturer's license.

23 {c}{3} In--addition--to--other--license--fees Except as
24 provided in subsection (6), the department may charge the
25 applicant a an additional, one-time video gambling machine

1 manufacturer-distributor's manufacturer's license
2 application processing fee. The application processing fee
3 may not exceed the department's actual costs for processing
4 an application.

5 {d}{4} All video gambling machine
6 manufacturer-distributor's manufacturer's licenses expire on
7 June 30 of each year, and the license fee may not be
8 prorated.

9 {e}{5} The department shall retain the license and
10 processing fees collected for purposes of administering this
11 part, unless otherwise provided.

12 {2}--A--licensed--operator--who--is--not--licensed--as--a
13 manufacturer-distributor--may--sell--up-to-20-video-gambling
14 machines-in-a-calendar-year-if-the-operator:

15 {a}--had-obtained-permits-for-the-machines--and--legally
16 operated-them-prior-to-the-sale--and

17 {b}--sells--the-machines-to-another-licensed-operator-or
18 a-licensed-manufacturer-distributor.

19 {3}--A--lienholder-who-acquires-title-to--video--gambling
20 machines--through--a-foreclosure-action-involving-a-licensed
21 operator-or-manufacturer-distributor-may-sell--the--machines
22 to-a-licensed-operator-or-licensed-manufacturer-distributor.

23 {6} The department may waive THE LICENSE FEE PROVIDED
24 FOR IN SUBSECTION (2) IF THE APPLICANT IS LICENSED AS A
25 DISTRIBUTOR OR ROUTE OPERATOR AND MAY WAIVE the application

1 processing fee provided for in subsection (3) if the
 2 applicant is licensed as a distributor, route operator, or
 3 operator."

4 **NEW SECTION. Section 19. Sale of video gambling**
 5 **machines by operator or lienholder. (1) A licensed operator**
 6 **who is not licensed as a manufacturer, distributor, or route**
 7 **operator may sell up to 20 video gambling machines in a**
 8 **calendar year if the operator:**

9 (a) had obtained permits for the machines and legally
 10 operated them prior to the sale; and

11 (b) sells the machines to another licensed operator or
 12 to a licensed manufacturer, distributor, or route operator.

13 (2) A lienholder who acquires title to video gambling
 14 machines through a foreclosure action involving a licensed
 15 manufacturer, distributor, route operator, or operator may
 16 sell the machines to a licensed manufacturer, distributor,
 17 route operator, or operator.

18 **Section 20. Section 23-5-631, MCA, is amended to read:**

19 "23-5-631. Examination and approval of new video
 20 gambling machines and associated equipment -- fee. (1) The
 21 department shall examine and may approve a new video
 22 gambling machine and or associated equipment or a
 23 modification to an approved machine or associated equipment
 24 which-are that is manufactured, sold, or distributed for use
 25 in the state before the video gambling machine or associated

1 equipment is sold, played, or used.

2 (2) A video gambling machine or associated equipment or
 3 a modification to an approved machine or associated
 4 equipment may not be examined or approved by the department
 5 until the video gambling machine manufacturer-distributor
 6 manufacturer is licensed as required in 23-5-625.

7 (3) All video gambling machines or associated equipment
 8 approved by the department of commerce prior to October 1,
 9 1989, must be considered approved under this part.

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

19 (5) Payments received under subsection (4) are
 20 statutorily appropriated to the department, as provided in
 21 17-7-502, to defray the costs of examining and approving
 22 video gambling machines and associated equipment and
 23 modifications to approved machines and associated equipment
 24 and to issue refunds for overpayments.

25 (6) The department may inspect and test and approve,

1 disapprove, or place a condition upon a video gambling
2 machine or associated equipment or a modification to an
3 approved machine or associated equipment prior to its
4 distribution and placement for play by the public."

5 **Section 21.** Section 23-6-104, MCA, is amended to read:

6 "23-6-104. Amusement games allowed. (1) Crane games, as
7 defined in 23-6-101, and the games described in subsection
8 (2) may be made available for public play.

9 (2) (a) Fish pond (duck pond). The player catches a
10 fish or other object floating in a pond of water by using a
11 pole, hand, net, or string. All fish or objects are marked
12 on the bottom, indicating the size of prize the player wins.
13 The player is awarded a prize each time, and the player must
14 be allowed to continue playing until a prize is won.

15 (b) Hoop or ring toss. The player tosses a hoop or ring
16 over a target that must consist of bottles, pegs, blocks, or
17 prizes. The operator shall specifically advise the player as
18 to the degree that the hoop or ring must go over the target.
19 All hoops of the same color used at an individual stand must
20 be the same size. All targets used at an individual booth
21 must be the same size, or the operator shall advise the
22 player by posting signs or using color codes denoting the
23 different sizes.

24 (c) Dart games. The target area for all dart games must
25 be of a material capable of being penetrated and of

1 retaining a metal tip dart. The target area must be in the
2 rear of the stand and must be at least 3 feet but not more
3 than 15 feet from the foul line. A target must be stationary
4 at all times.

5 (i) Balloon (poparoo) (balloon smash). The targets are
6 inflated balloons. The player throws one or more darts to
7 burst a predetermined number of balloons. If the
8 predetermined number of balloons are burst by the darts, the
9 player receives the prize indicated.

10 (ii) Dart throw. The targets are various sizes and
11 shapes located on the target area. The player throws darts
12 individually at the target. A dart must stick in a
13 predetermined target to win the prize as designated.

14 (iii) Tic tac toe dart. The target is a tic tac toe
15 board located in the target area. The player throws darts at
16 the target and wins a designated prize when the thrown darts
17 line up in a row in the target. The darts may line up
18 vertically, horizontally, or diagonally to win.

19 (iv) Add-um-up darts. The target consists of numbered
20 squares located in the target area. Prizes are awarded based
21 on the total score obtained by the player by throwing and
22 sticking the darts in the numbered squares. A dart that
23 sticks on a line must be thrown again. The player may add up
24 the score of the darts thrown.

25 (d) Ball tosses. In all ball toss games, the balls used

at a specific stand must be of the same weight and size. Targets must be of the same weight and size, or the operator shall color code the targets and advise the player of the difference in targets by posting a sign or providing a duplicate of the target showing the limitations or restrictions. The sign or duplicate target must be readily visible to the player.

(i) Milk bottle toss. The player tosses or throws balls at simulated milk bottles. The player wins by either tipping over or knocking bottles off the raised platform as designated by the operator. The bottles may be constructed of wood, metal, or plastic or a combination of the three. Operators may vary the number of bottles and balls used in each game. Floating or loose weights in bottles are not allowed. The weight of individual bottles may not exceed 7 1/2 pounds.

(ii) Milk can (Mexican hat) (cone). The player tosses a ball into the opening of a milk can, into a fiberglass Mexican hat turned upside down, or through a cone to win.

(iii) Football toss (tire toss). The player tosses or throws a football through a stationary tire or hoop to win.

(iv) Basketball toss/throw. The player tosses or throws a basketball through a hoop to win.

(v) Bushel baskets. The player tosses balls into a bushel basket mounted on a stationary backdrop at a fixed

angle. The balls must stay in the basket to win. Rim shots are allowed, except the operator may designate the top 6 inches of the basket rim by color and disallow balls striking this area as winning tosses.

(vi) Cat-ball-toss (star/diamond toss). The player tosses balls into a simulated cat's mouth or a round, diamond, or star-shaped hole to win.

(vii) Ping pong toss. The player tosses ping pong balls into dishes, saucers, cups, or ashtrays floating in water. A predetermined number of balls must remain in the dishes, saucers, cups, or ashtrays for the player to win. The dishes, saucers, cups, or ashtrays must have water covering the bottom of the surface that is facing up.

(viii) Fishbowl game. The player tosses ping pong balls into a water-filled fish bowl to win.

(ix) Volleyball toss (soccer ball). The player tosses a volley or soccer ball into a keg-type container mounted on a stationary backdrop at a fixed angle. The ball must stay in the keg to win a prize. Rim shots are authorized as stated in subsection (2)(d)(v) for bushel baskets.

(x) Goblet ball (whiffle ball). The player tosses a whiffle ball into a target area of glass or plastic goblets. Located in the target area are colored goblets that determine the type of prize the player wins. At least 33% of the goblets in the target area must be winners. The ball

1 must stay in the goblet to win a prize.

2 (xi) Break the plate/bottle. The player tosses or throws
3 a ball at a plate, phonograph record, or bottle. The type of
4 prize won is determined by the number of targets broken by
5 the player.

6 (xii) Punk rack. The targets for this game are rows of
7 dolls or cats on a ledge at the rear of the stand. The dolls
8 or cats must be filled with sawdust, styrofoam, cotton, or
9 other like material that provides a firm base for the ball
10 to strike. The hair protruding from the side of the dolls or
11 cats may not exceed 3 inches. The prize is determined by how
12 many dolls or cats the player knocks over or off the ledge,
13 as posted by the operator.

14 (xiii) Teeth game. The target consists of a large face
15 with wooden teeth. The prize is determined by how many teeth
16 the player knocks down by throwing a ball.

17 (xiv) Toilet game (doniker). To win, the player tosses
18 or throws a ball or other object through a toilet seat
19 located at the rear of the stand.

20 (xv) Coke roll. The player rolls a ball down an alley
21 with the object of knocking over two coke bottles standing
22 at the end of the alley. The player must tip over both
23 bottles to win. Bottles must be placed on predetermined
24 spots painted on the surface of the alley.

25 (xvi) Rolldown. The player rolls balls down an alley

1 with the object of putting the balls in numbered slots at
2 the end of the alley. The scores represented by the balls in
3 each numbered slot are added up at the conclusion of the
4 game. Scores above or below a predetermined score win. The
5 alley surface must be smooth and free from defects at all
6 times.

7 (xvii) Fascination (I got it). Fascination is a group
8 game that involves competition among the players. The target
9 area consists of 25 holes, and the player tosses or rolls a
10 ball into one of the holes. The object of the game is to get
11 five balls in a row either vertically, horizontally, or
12 diagonally. The first player to accomplish this is the
13 winner. Prize size is determined by the number of players
14 participating in each game.

15 ~~{xviii}-Sakewalk-The-players-walk-on-a-predetermined~~
16 ~~route-with-designated-spots,-and-when-the-operator-stops-the~~
17 ~~walk,-the-player-on-a-predetermined-spot-wins-a-prize-~~

18 ~~{xix}~~(xviii) Batter-up. The player uses a whiffle ball
19 bat to swing and strike whiffle balls that are pitched at
20 medium speed from a pitching machine. The player wins when
21 he the player hits a ball into the home run shelf. The home
22 run shelf is located at the back of the batting cage
23 approximately 15 feet from the player.

24 ~~{xx}~~(xix) Sky bowling. Two bowling pins are set on
25 predetermined painted spots on a shelf. A ball is attached

1 to a chain suspended from a stationary support at least 6
2 inches to the right or left of the bowling pins. The object
3 is to swing the ball, miss the pins with the ball as it goes
4 forward, and knock the pins over as the ball returns.

5 {xxii}(xx) Clown rolldown. A ball is tossed through the
6 open mouth of a moving clown or animal head. The ball then
7 rolls down a chute to numbered slots at the rear of the
8 clown or animal head. The scores represented by the balls in
9 each numbered slot are added up at the conclusion of the
10 game. Prizes are awarded on the points achieved.

11 {xxiii}(xxi) Skee ball. The player rolls a ball up the
12 mechanical bowling alley into targets. A computer adds up
13 the scores, and the predetermined scores win.

14 {xxiii}(xxii) Speedball radar game. The player gets four
15 balls and throws three balls through radar to establish
16 speeds and to estimate at what speed the fourth ball will
17 pass through the radar. The player wins a prize if he the
18 player accurately estimates the speed of the fourth ball.
19 The radar must be mounted and stationary.

20 (e) Shooting games. These games are conducted by the
21 player using a weapon of some type to shoot at a target in
22 the rear of the stand. The safety requirements of local city
23 or county ordinances must be observed by the operator and
24 player. The target may be stationary or mobile.

25 (i) Short range (shooting gallery). In this game, the

1 player is given four rounds to shoot at a spot target 1/4
2 inch or less in diameter. The player wins when the spot
3 target is completely shot out, or the player is given five
4 rounds to shoot one round each at five triangular, round, or
5 1/2-inch square targets. The prize is determined by the
6 number of targets struck by the player, or the player is
7 given five rounds to shoot one round each at five
8 triangular, round, or 1/2-inch square targets. Within each
9 target is a bull's eye. The player must hit the bull's eye
10 without touching the outer surface of the target. The prize
11 is determined by the number of bull's eyes correctly hit.

12 (ii) Shoot-out-the-star (machine gun). The player, using
13 an automatic air pellet gun, is given 100 pellets to shoot
14 at a star-shaped target. The player must shoot out all of
15 the target to win. The star cannot be more than 1 1/4 inches
16 from point-to-point.

17 (iii) Water racer. This group game involves a
18 competition, with the player winning a prize based on the
19 number of players competing. The player, using a water
20 pistol, shoots the water into a target. The water that
21 strikes the target causes a balloon to inflate or advances
22 an object to ring a bell. The first player who bursts the
23 balloon or rings the bell is the winner.

24 (iv) Rapid fire. This group game involves competition
25 similar to the water racer game described in subsection

1 (2)(e)(iii). The player uses an electronic pistol to shoot
2 at a target. Hits on the target give the player a score. The
3 first player to reach a predetermined score is the winner.

4 (v) Cork gallery. The player uses a cork gun or similar
5 device to propel objects, including but not limited to
6 corks, suction cup darts, or styrofoam balls, to shoot at
7 targets located on a shelf or at a bull's eye target. The
8 player must hit the bull's eye or knock the target over or
9 off the shelf to win a prize. The prize is determined by the
10 target knocked over or off the shelf, by the number of
11 targets knocked over or off the shelf, or by the player
12 accomplishing other tasks, as stated in the posted rules.
13 When suction cup darts or other darts are used and fail to
14 stay on or in the target, the player must shoot the dart
15 again. The base of each target must be uniform, front and
16 rear.

17 (vi) Boomball. The player uses a cannon with compressed
18 air to propel balls into a target area. The targets have
19 varied point value. If the ball remains in the target, a
20 computer adds up the score. Prizes are awarded based on the
21 points achieved.

22 (f) Coin pitchers.

23 (i) Spot pitch (lucky strike). The player pitches a
24 coin at colored spots located on a table in the center of
25 the stand. The coin must touch or stay inside of a spot to

1 win a prize.

2 (ii) Plate pitch. The player pitches a coin onto a glass
3 plate to win a prize as designated.

4 (iii) Glass pitch (bowl). The player pitches a coin into
5 or onto dishes or glasses. If the coin remains in a top
6 target glass item, then the player wins that item.

7 (g) Cakewalk. The players walk on a predetermined route
8 with designated spots, and when the operator stops the walk,
9 the player on a predetermined spot wins a prize.

10 ~~(g)~~(h) Miscellaneous games.

11 (i) Skill chute (bulldozer) (penny fall).

12 (A) The games in each of the following sentences
13 require the The player inserts to insert a coin or token
14 into a chute, aiming the coin or token so that it will fall
15 in front of a continuous sweeper (bulldozer) operating on a
16 playing field containing additional coins, tokens, or
17 merchandise. If-the A coin or-token that is aimed correctly,
18 the will cause a sweeper (bulldozer) with operating on a
19 playing field containing additional coins to push additional
20 tokens--or--prizes coins into a counting mechanism that will
21 convert the coins into tokens or tickets and dispense them
22 to the player. A token that is aimed correctly will cause a
23 sweeper (bulldozer) operating on a playing field containing
24 additional tokens or merchandise to push the tokens or
25 merchandise into a hole or chute that sends them to the

1 player. A token that is aimed correctly will cause a sweeper
 2 (bulldozer) operating on a playing field containing
 3 additional tokens to push tokens into a hole or chute that
 4 sends them to the player or pushes tokens into a counting
 5 mechanism that will convert the tokens into tickets and
 6 dispense them to the player.

7 (B) Tokens--are--exchanged--for--prizes--if--there--is--a
 8 hidden There may not be a ledge, tip, or similar obstruction
 9 that inhibits the passage of coins, tokens, or prizes
 10 merchandise into the counting mechanism, hole, or chute that
 11 sends--them--to--the--player--the--operator--shall--post--a--sign--to
 12 advise--the--players.

13 (ii) Tip-em-up bottle. The player is provided with a
 14 pole and a string that has a hoop or ring attached at the
 15 end. The player, using the pole with a ring, must raise a
 16 bottle lying on its side to an upright position to win.

17 (iii) Hi-striker. The player, using a wooden maul, must
 18 strike a lever target that causes a metal weight to rise on
 19 a guideline or track and ring a bell. The player must ring
 20 the bell a predetermined number of times to win a prize.

21 (iv) Rope ladder. The player must climb up a rope
 22 ladder, which is anchored at both ends by a swivel, and ring
 23 a bell or buzzer to win a prize.

24 (v) Whac-a-mole. This is a group game that has a target
 25 surface with five holes through which animated moles pop up

1 and down at random. The player must hit as many moles as
 2 possible with a mallet. The first player to hit a
 3 predetermined number of moles wins.

4 (vi) Dip bowling game. The player rolls a bowling-type
 5 ball over a hump in the track. If the ball stays on the back
 6 side of the hump, the player wins.

7 (vii) Horserace derby. This is a group game in which a
 8 player advances his a horse by shooting or rolling a ball in
 9 the target area. The faster and more skillfully the player
 10 shoots or rolls his a ball, the faster his the player's
 11 horse will run. The first horse to cross the finish line
 12 wins.

13 (viii) Shuffleboard. The player pushes a puck down a
 14 shuffleboard alley to knock over poly pins at the end of an
 15 alley. The player wins by knocking down all the pins.

16 (ix) Bean bag. The player tosses or throws a bean bag or
 17 a simulated bean bag at cans, bottles, or other objects on a
 18 raised platform. The player wins a prize when he either
 19 knocks the object off the raised platform or tips the target
 20 over.

21 (x) Soccer kick. The player kicks a soccer ball through
 22 a hole in the target area to win.

23 (xi) Frog game. A plastic frog or similar object sits on
 24 a small end of a teeter-totter. The opposite end of the
 25 teeter-totter is struck with a mallet, causing the frog to

1 fly off the teeter-totter. If the frog lands in a pail or
2 similar receptacle, the player wins a prize.

3 (xii) Cover the spot. The object of this game is for the
4 player to drop five circular discs onto a circular spot,
5 completely covering the spot. The diameter of each of the
6 discs used to cover the spot must be a minimum of 64% of the
7 diameter of the spot to be covered. The spot to be covered
8 must be painted or drawn on a permanent, solid material,
9 such as metal or wood, or may be a lighted circle. The spot
10 and each disc must have a uniform diameter.

11 (xiii) Pocket billiards. Using a regulation pocket
12 billiard table, a player must run a consecutive number of
13 balls to win a prize. The number of balls is set by the
14 operator."

15 **Section 22.** Section 41-5-203, MCA, is amended to read:

16 "41-5-203. Jurisdiction of the court. (1) Except as
17 provided in subsection (2), the court has exclusive original
18 jurisdiction of all proceedings under the Montana Youth
19 Court Act in which a youth is alleged to be a delinquent
20 youth, a youth in need of supervision, or a youth in need of
21 care or concerning any person under 21 years of age charged
22 with having violated any law of the state or ordinance of
23 any city or town other than a traffic or fish and game law
24 prior to having become 18 years of age.

25 (2) Justice, municipal, and city courts have concurrent

1 jurisdiction with the youth court over all alcoholic
2 beverage and gambling violations alleged to have been
3 committed by a youth."

4 **NEW SECTION. Section 23.** Codification instruction.
5 [Sections 57-15-through-177-and-21 20 4, 14 THROUGH 16, AND
6 19] are intended to be codified as an integral part of Title
7 23, chapter 5, and the provisions of Title 23, chapter 5,
8 apply to [sections 57-15-through-177-and-21 20 4, 14 THROUGH
9 16, AND 19].

10 **NEW SECTION. Section 24.** Applicability. [Section 17
11 16] applies to agreements entered into after October 1,
12 1993.

-End-

OFFICE OF THE GOVERNOR
STATE OF MONTANA



MARC RACICOT
GOVERNOR

STATE CAPITOL
HELENA, MONTANA 59620-0801

April 19, 1993

The Honorable John Mercer
Speaker of the House
State Capitol
Helena MT 59620

The Honorable Fred Van Valkenburg
President of the Senate
State Capitol
Helena MT 59620

Dear Speaker Mercer and President Van Valkenburg:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return House Bill No. 411, "AN ACT GENERALLY REVISING THE PUBLIC GAMBLING AND AMUSEMENT GAME LAWS OF MONTANA" REVISING THE COMPENSATION FOR GAMING ADVISORY COUNCIL MEMBERS; REVISING THE DEFINITIONS OF BINGO, DISTRIBUTOR, LICENSE, MANUFACTURER, AND PROMOTIONAL GAME OF CHANCE; REQUIRING THE DEPARTMENT OF JUSTICE TO HAVE CLEAR AND CONVINCING EVIDENCE BEFORE ISSUING A TEMPORARY CEASE AND DESIST ORDER; STATING THE TYPES OF EVIDENCE TO BE PRESENTED DURING AN ADMINISTRATIVE PROCEEDING; DEFINING CONDITIONS UNDER WHICH AN ILLEGAL GAMBLING DEVICE MAY BE BROUGHT INTO THE STATE FOR EXPORT PURPOSES; PROVIDING PENALTIES FOR CREDIT GAMBLING AND UNDERAGE GAMBLING VIOLATIONS; REVISING SHAKE-A-DAY PROVISIONS; CLARIFYING PROVISIONS REGARDING THE GRANTING OF CERTAIN GAMBLING PERMITS TO PERSONS WITHOUT ON-PREMISES CONSUMPTION ALCOHOLIC BEVERAGES LICENSES; REVISING CARD GAME TOURNAMENT PROVISIONS; LIMITING THE PAYOUT ON CERTAIN PROMOTIONAL GAMES OF CHANCE; LIMITING SPORTS POOLS TO EVENTS INVOLVING NATURAL PERSONS; CREATING A DISTRIBUTOR'S LICENSE AND A ROUTE OPERATOR'S LICENSE; DEFINING ALLOWABLE COMPENSATION FOR ROUTE OPERATORS; ALLOWING THE SALE OF VIDEO GAMBLING MACHINES BY AN OPERATOR OR LIENHOLDER; REVISING CERTAIN PROVISIONS RELATING TO VIDEO GAMBLING MACHINES; EXPANDING COURT JURISDICTION OVER GAMBLING VIOLATIONS BY YOUTHS; REVISING AMUSEMENT GAME PROVISIONS; AMENDING SECTIONS 2-15-1021, 23-5-112, 23-5-136, 23-5-152, 23-5-157, 23-5-158, 23-5-160, 23-5-306, 23-5-312, 23-5-317, 23-5-412,

Page 2
April 19, 1993

23-5-501, 23-5-602, 23-5-625, 23-5-631, 23-6-104, AND 41-5-203, MCA; AND PROVIDING AN APPLICABILITY PROVISION," with the attached amendments for the following reasons.

House Bill 411, by request of the Department of Justice, generally provides technical amendments to the state's gambling statutes. Since the Legislature's deliberations on the bill, Senator Fred Van Valkenburg has brought to my attention that certain casinos have recently been promoting and conducting raffles for individuals who cash their payroll checks on the premises. I believe that such a practice is inconsistent with the state's public policy concerning gambling.

The Legislature in 1989 declared as part of its purpose in regulating gambling the necessity to protect the welfare of all citizens of the state and to promote programs necessary to provide assistance to those who are adversely affected by legalized gambling, including compulsive gamblers and their families. The practice of offering workers a financial incentive if they cash their payroll checks in a gambling establishment is contrary to this stated purpose. The sponsor, Representative Royal Johnson, and the Department of Justice agree. Therefore, I urge your consideration of an amendment that would prohibit such activities.

Sincerely,

A handwritten signature in dark ink, appearing to read "Marc Racicot", written in a cursive style.

MARC RACICOT
Governor

GOVERNOR'S AMENDMENTS
TO HOUSE BILL NO. 411
(REFERENCE COPY)
APRIL 19, 1993

1. Title, page 2, line 7.

Following: ";"

Insert: "PROHIBITING CERTAIN PROMOTIONAL ACTIVITIES IN CONNECTION WITH THE CASHING OF PAYROLL CHECKS;"

2. Page 54, line 3.

Following: line 3

Insert: "NEW SECTION. Section 23. Payroll checks - promotional activities prohibited. A licensee may not offer financial incentives or conduct promotional games of chance in connection with an offer to cash payroll checks on the premises."

Renumber: subsequent sections

3. Page 54, line 5.

Following: "16,"

Strike: "AND"

4. Page 54, line 6.

Following: "19"

Insert: ", and 23"

Gov's Amend
HB 411

1 HOUSE BILL NO. 411

2 INTRODUCED BY R. JOHNSON, YELLOWTAIL, WANZENRIED

3 BY REQUEST OF THE DEPARTMENT OF JUSTICE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
6 PUBLIC GAMBLING AND AMUSEMENT GAME LAWS OF MONTANA; REVISING
7 THE COMPENSATION FOR GAMING ADVISORY COUNCIL MEMBERS;
8 REVISING THE DEFINITIONS OF BINGO, DISTRIBUTOR, LICENSE,
9 MANUFACTURER, AND PROMOTIONAL GAME OF CHANCE; ~~REVISING THE~~
10 ~~METHOD FOR DISTRIBUTING PINES, PENALTIES, AND FORFEITURES,~~
11 REQUIRING THE DEPARTMENT OF JUSTICE TO HAVE CLEAR AND
12 CONVINCING EVIDENCE BEFORE ISSUING A TEMPORARY CEASE AND
13 DESIST ORDER; STATING THE TYPES OF EVIDENCE TO BE PRESENTED
14 DURING AN ADMINISTRATIVE PROCEEDING; DEFINING CONDITIONS
15 UNDER WHICH AN ILLEGAL GAMBLING DEVICE MAY BE BROUGHT INTO
16 THE STATE FOR EXPORT PURPOSES; PROVIDING PENALTIES FOR
17 CREDIT GAMBLING AND UNDERAGE GAMBLING VIOLATIONS; REVISING
18 SHAKE-A-DAY PROVISIONS; CLARIFYING PROVISIONS REGARDING THE
19 GRANTING OF CERTAIN GAMBLING PERMITS TO PERSONS WITHOUT
20 ON-PREMISES CONSUMPTION ALCOHOLIC BEVERAGES LICENSES;
21 REVISING CARD GAME TOURNAMENT PROVISIONS; ~~PROVIDING THAT AN~~
22 ~~OPERATOR IS ALSO LIABLE FOR A VIOLATION INVOLVING OPERATION~~
23 ~~OF A LIVE CARD ROOM TABLE BY A LICENSED CARD ROOM~~
24 ~~CONTRACTOR;~~ LIMITING THE PAYOUT ON CERTAIN PROMOTIONAL GAMES
25 OF CHANCE; LIMITING SPORTS POOLS TO EVENTS INVOLVING NATURAL

1 PERSONS; CREATING A DISTRIBUTOR'S LICENSE AND A ROUTE
2 OPERATOR'S LICENSE; DEFINING ALLOWABLE COMPENSATION FOR
3 ROUTE OPERATORS; ALLOWING THE SALE OF VIDEO GAMBLING
4 MACHINES BY AN OPERATOR OR LIENHOLDER; REVISING CERTAIN
5 PROVISIONS RELATING TO VIDEO GAMBLING MACHINES; EXPANDING
6 COURT JURISDICTION OVER GAMBLING VIOLATIONS BY YOUTHS;
7 REVISING AMUSEMENT GAME PROVISIONS; PROHIBITING CERTAIN
8 PROMOTIONAL ACTIVITIES IN CONNECTION WITH THE CASHING OF
9 PAYROLL CHECKS; AMENDING SECTIONS 2-15-2021, 23-5-112,
10 23-5-123, 23-5-136, 23-5-152, 23-5-157, 23-5-158, 23-5-160,
11 23-5-306, 23-5-312, 23-5-317, 23-5-324, 23-5-412, 23-5-501,
12 23-5-602, 23-5-611, 23-5-625, 23-5-631, 23-6-104, AND
13 41-5-203, MCA; AND PROVIDING AN APPLICABILITY PROVISION."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:16 **Section 1.** Section 2-15-2021, MCA, is amended to read:17 "2-15-2021. Gaming advisory council -- allocation --
18 composition -- compensation -- biennial report. (1) There is
19 a gaming advisory council.20 (2) The gaming advisory council is allocated to the
21 department for administrative purposes only as prescribed in
22 2-15-121.23 (3) The gaming advisory council consists of nine
24 members. One member must be from the senate, and one member
25 must be from the house of representatives. The senate

committee on committees and the speaker of the house of representatives shall appoint the legislative members of the council. The seven remaining members must be appointed by the department, with one representing the public at large, two representing local governments, one being a Native American, and three representing the gaming industry.

(4) Each gaming advisory council member is appointed to a 3-year term of office, ~~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.~~ A member of the council may be removed for good cause by the appointing body provided for in subsection (3).

(5) The gaming advisory council shall appoint a chairman presiding officer from its members.

(6) ~~Legislative members~~ Members of the gaming advisory council are entitled to ~~compensation and expenses, as provided in 5-2-302, while the council is meeting. The remaining members are entitled to~~ travel, meals, and lodging expenses as provided for in 2-18-501 through 2-18-503. A member who is not a full-time salaried officer or employee of the state or of a political subdivision of the state is also entitled to be paid \$25 for each day during which the member is actually and necessarily engaged in the performance of council duties. Expenses of the council must

be paid from licensing fees received by the department.

(7) The gaming advisory council shall, within its authorized budget, hold meetings and incur expenses as it considers necessary to study all aspects of gambling in the state.

(8) (a) The gaming advisory council shall submit a biennial report to the department, at a time designated by the department, with recommendations for amendments to the gambling statutes, the need for additional or modified department rules, the clarification of existing rules, and other recommendations on the operation of the department or any other gambling-related matter.

(b) The biennial report required under subsection (8)(a) must be affixed to the report on gambling in the state that the department submits that year. The department and council shall, as provided in 5-11-210, submit the two most recent department and council reports to the legislature.

(c) The council may submit interim reports to the department as the council considers necessary.

(d) The council shall meet with the department upon request of the department.

(e) The department shall meet with the council upon request of the council.

(9) The department shall give each council member

1 notice and a copy of each proposed change in administrative
 2 rules relating to gambling. The notice and copy must be
 3 given at the time a notice of proposed rules changes is
 4 filed with the secretary of state. The council shall review
 5 the proposal, may comment on it, and may attend any hearing
 6 on the proposal. The department shall consider any comment
 7 by any council member or by the council as a whole prior to
 8 adopting the proposed change."

9 **Section 2.** Section 23-5-112, MCA, is amended to read:

10 "23-5-112. Definitions. Unless the context requires
 11 otherwise, the following definitions apply to parts 1
 12 through 6 of this chapter:

13 (1) "Applicant" means a person who has applied for a
 14 license or permit issued by the department pursuant to parts
 15 1 through 6 of this chapter.

16 (2) "Application" means a written request for a license
 17 or permit issued by the department. The department shall
 18 adopt rules describing the forms and information required
 19 for issuance of a license.

20 (3) "Authorized equipment" means, with respect to live
 21 keno or bingo, equipment that may be inspected by the
 22 department and that randomly selects the numbers.

23 (4) "Bingo" means a gambling activity played for prizes
 24 with a card bearing a printed design of 5 columns of 5
 25 squares each, 25 squares in all. The letters B-I-N-G-O must

1 appear above the design, with each letter above one of the
 2 columns. No-more More than 75 numbers may not be used. One
 3 number must appear in each square, except for the center
 4 square, which may be considered a free play. Numbers are
 5 randomly drawn using authorized equipment until the game is
 6 won by the person or persons who first cover a one or more
 7 previously designated arrangement arrangements of numbers on
 8 the bingo card.

9 (5) "Bingo caller" means a person 18 years of age or
 10 older who, using authorized equipment, announces the order
 11 of the numbers drawn in live bingo.

12 (6) "Card game table" or "table" means a live card game
 13 table:

14 (a) authorized by permit and made available to the
 15 public on the premises of a licensed gambling operator; or

16 (b) operated by a senior citizen center.

17 (7) "Card game tournament" means a gambling activity
 18 for which a permit has been issued involving participants
 19 who pay valuable consideration for the opportunity to
 20 compete against each other in a series of live card games
 21 conducted over a designated period of time.

22 (8) "Dealer" means a person with a dealer's license
 23 issued under part 3 of this chapter.

24 (9) "Department" means the department of justice.

25 (10) "Distributor" means a person who:

(a) purchases or obtains from another person a licensed manufacturer, DISTRIBUTOR, OR ROUTE OPERATOR equipment of any kind for use in gambling activities; and

(b) ~~sells, leases, or otherwise furnishes~~ the equipment to ~~another person for use in public~~ a licensed distributor, route operator, or operator.

(11) "Gambling" or "gambling activity" means risking money, credit, deposit, check, property, or any other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling device or gambling enterprise. The term does not mean conducting or participating in a promotional game of chance and does not include amusement games regulated by Title 23, chapter 6, part 1.

(12) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling activity.

(13) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme, or agreement to provide gambling or a gambling device to the public.

(14) "Gross proceeds" means gross revenue received less prizes paid out.

(15) "Illegal gambling device" means a gambling device not specifically authorized by statute or by the rules of

the department. The term includes:

(a) a ticket or card, by whatever name known, containing concealed numbers or symbols that may match numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push card, tip board, pickle ticket, break-open, or jar game, except for one used under chapter 7 or under part 5 of this chapter or in a promotional game of chance approved by the department; and

(b) an apparatus, implement, or device, by whatever name known, specifically designed to be used in conducting an illegal gambling enterprise, including a faro box, faro layout, roulette wheel, roulette table, or craps table or a slot machine except as provided in 23-5-153.

(16) "Illegal gambling enterprise" means a gambling enterprise that violates or is not specifically authorized by a statute or a rule of the department. The term includes:

(a) a card game, by whatever name known, involving any bank or fund from which a participant may win money or other consideration and that receives money or other consideration lost by the participant and includes the card games of blackjack, twenty-one, jacks or better, baccarat, or chemin de fer;

(b) a dice game, by whatever name known, in which a participant wagers on the outcome of the roll of one or more dice, includes craps, hazard, or chuck-a-luck, but does not

1 include an activity in which a participant rolls one or more
2 dice for a chance to obtain a drink or music; and

3 (c) sports betting, by whatever name known, in which a
4 person places a wager on the outcome of an athletic event,
5 including bookmaking, parlay bets, or sultan sports cards,
6 but not including those activities authorized in chapter 4
7 of this title and parts 2 and 5 of this chapter.

8 (17) "Keno" means a game of chance in which prizes are
9 awarded using a card with 8 horizontal rows and 10 columns
10 on which a player may pick up to 10 numbers. A keno caller,
11 using authorized equipment, shall select at random at least
12 20 numbers out of numbers between 1 and 80, inclusive.

13 (18) "Keno caller" means a person 18 years of age or
14 older who, using authorized equipment, announces the order
15 of the numbers drawn in live keno.

16 (19) "License" means an operator's, dealer's,
17 distributor's, manufacturer's, or manufacturer-distributor's
18 route operator's license issued to a person by the
19 department.

20 (20) "Licensee" means a person who has received a
21 license from the department.

22 (21) "Live card game" or "card game" means a card game
23 that is played in public between persons on the premises of
24 a licensed gambling operator or in a senior citizen center.

25 (22) "Lottery" or "gift enterprise" means a scheme, by

1 whatever name known, for the disposal or distribution of
2 property by chance among persons who have paid or promised
3 to pay valuable consideration for the chance of obtaining
4 the property or a portion of it or for a share or interest
5 in the property upon an agreement, understanding, or
6 expectation that it is to be distributed or disposed of by
7 lot or chance. However, "gift enterprise" does not mean:

8 (a) lotteries authorized under chapter 7; or

9 (b) cash or merchandise attendance prizes or premiums
10 that the county fair commissioners of agricultural fairs and
11 rodeo associations may give away at public drawings at fairs
12 and rodeos.

13 (23) "Manufacturer" means a person who assembles from
14 raw materials or subparts a completed piece of equipment or
15 pieces of equipment of any kind to be used as a gambling
16 device and who sells the equipment directly to a licensed
17 distributor, route operator, or operator.

18 (24) "Nonprofit organization" means a nonprofit
19 corporation or nonprofit charitable, religious, scholastic,
20 educational, veterans', fraternal, beneficial, civic, senior
21 citizens', or service organization established for purposes
22 other than to conduct a gambling activity.

23 (25) "Operator" means a person who purchases, receives,
24 or acquires, by lease or otherwise, and operates or controls
25 for use in public, a gambling device or gambling enterprise

1 authorized under parts 1 through 6 of this chapter.

2 (26) "Permit" means approval from the department to make
3 available for public play a gambling device or gambling
4 enterprise approved by the department pursuant to parts 1
5 through 6 of this chapter.

6 (27) "Person" or "persons" means both natural and
7 artificial persons and all partnerships, corporations,
8 associations, clubs, fraternal orders, and societies,
9 including religious and charitable organizations.

10 (28) "Premises" means the physical building or property
11 within or upon which a licensed gambling activity occurs, as
12 stated on an operator's license application and approved by
13 the department.

14 (29) "Promotional game of chance" means a scheme, by
15 whatever name known, for the disposal or distribution of
16 property by--chance among persons who have not paid or are
17 not expected to pay any valuable consideration or who have
18 not purchased or are not expected to purchase any goods or
19 services for a chance to obtain the property, a portion of
20 it, or a share in it. The property is disposed of or
21 distributed by simulating a gambling enterprise authorized
22 by parts 1 through 8 of this chapter or by operating a
23 device OR ENTERPRISE approved by the department that was
24 manufactured or intended for use for purposes other than
25 gambling.

1 (30) "Public gambling" means gambling conducted in:

2 (a) a place, building, or conveyance to which the
3 public has access or may be permitted to have access;

4 (b) a place of public resort, including but not limited
5 to a facility owned, managed, or operated by a partnership,
6 corporation, association, club, fraternal order, or society,
7 including a religious or charitable organization; or

8 (c) a place, building, or conveyance to which the
9 public does not have access if players are publicly
10 solicited or the gambling activity is conducted in a
11 predominantly commercial manner.

12 (31) "Raffle" means a form of lottery in which each
13 participant pays valuable consideration for a ticket to
14 become eligible to win a prize. Winners must be determined
15 by a random selection process approved by department rule.

16 (32) "Route operator" means a person who:

17 (a) purchases from a licensed manufacturer, ROUTE
18 OPERATOR, or distributor equipment of any kind for use in a
19 gambling activity;

20 (b) leases the equipment to a licensed operator for use
21 by the public; and

22 (c) may sell to a licensed operator equipment that had
23 previously been authorized to be operated on a premises.

24 ~~(32)~~ (33) "Senior citizen center" means a facility
25 operated by a nonprofit or governmental organization that

provides services to senior citizens in the form of daytime or evening educational or recreational activities and does not provide living accommodations to senior citizens. Services qualifying under this definition must be recognized in the state plan on aging adopted by the department of family services.

~~(33)~~(34) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. This definition does not apply to video gambling machines authorized under part 6 of this chapter.

~~(34)~~(35) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department."

~~Section 3. Section 23-5-123, MCA, is amended to read:~~

~~"23-5-123. Disposal of money confiscated by reason of violation of gambling laws. All fines, penalties,~~

~~forfeitures, and confiscated money collected by criminal, civil, or administrative process for a violation of a provision of parts 1 through 6 of this chapter or a rule of the department must be deposited one-half in the state general fund and one-half in the general fund of the county in which the violation occurred distributed as follows:~~

~~(1) Funds collected through a criminal proceeding must be distributed according to 3-18-601 or 46-18-235.~~

~~(2) One-third of the funds collected through a civil or administrative proceeding must be deposited in the state special revenue account maintained for funds used by the department in administering parts 1 through 8 of this chapter and related rules. The remainder must be distributed to the county treasurer or the clerk, financial officer, or treasurer of the city or town in which the violation occurred for deposit in the county or municipal treasury. A county is not entitled to a penalty payment if the violation occurred in an incorporated city or town within the county."~~

Section 3. Section 23-5-136, MCA, is amended to read:

"23-5-136. Injunction and other remedies. (1) If 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) upon clear and convincing evidence, issue a

1 temporary order to cease and desist from the gambling
2 activity, act, or practice for a period not to exceed 60
3 days;

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

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

10 (ii) place a licensee on probation;

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

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

18 (v) impose a civil penalty not to exceed \$10,000 for
19 each violation, whether or not the person is licensed by the
20 department; and

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

23 (c) bring an action in district court for relief
24 against the act or practice. The department may not be
25 required to post a bond. On proper showing, the court may:

1 (i) issue a restraining order, a temporary or permanent
2 injunction, or other appropriate writ;

3 (ii) suspend or revoke a license or permit; and

4 (iii) appoint a receiver or conservator for the
5 defendant or the assets of the defendant.

6 (2) The department may issue a warrant for distraint
7 against an operator who fails to pay a civil penalty imposed
8 under subsection (1) or a tax imposed under 23-5-409 or
9 23-5-610. The department may issue the warrant for the
10 amount of the unpaid penalty or for the amount of the unpaid
11 tax, plus penalty and accumulated interest on the tax, and
12 shall follow the procedures provided in 15-1-701 through
13 15-1-708.

14 (3) (a) A civil penalty imposed under this section must
15 be collected by the department and distributed as provided
16 in 23-5-123. The local government portion of the penalty
17 payment is statutorily appropriated to the department, as
18 provided in 17-7-502, for deposit to the county or municipal
19 treasury.

20 (b) If a person fails to pay the civil penalty, the
21 amount due is a lien on the person's licensed premises and
22 gambling devices in the state and may be recovered by the
23 department in a civil action."

24 NEW SECTION. Section 4. Evidence in administrative
25 proceedings. When conducting an administrative proceeding

under parts 1 through 8 of this chapter, the department may admit-into-the-record-and-give-probative-effect-to--evidence that---possesses---probative---value---commonly---accepted---by reasonably--prudent--persons: CONSIDER HEARSAY EVIDENCE APPROVED BY THE HEARING EXAMINER IN A PREHEARING CONFERENCE AT WHICH A DETERMINATION IS MADE THAT THE EVIDENCE POSSESSES SUFFICIENT GUARANTIES OF TRUSTWORTHINESS AND DOES NOT INVOLVE A QUESTION OF THE CREDIBILITY OF A WITNESS OR OF THE CREDIBILITY OF A WITNESS'S SUBJECTIVE OBSERVATIONS OR ANALYSIS.

Section 5. Section 23-5-152, MCA, is amended to read:

"23-5-152. Possession of illegal gambling device or conducting illegal gambling enterprise prohibited -- exceptions. (1) Except as provided in 23-5-153 and subsections (2) through (4) of this section, it is a misdemeanor punishable under 23-5-161 for a person to purposely or knowingly:

(a) have in ~~his~~ the person's possession or under ~~his~~ the person's control or permit to be placed, maintained, or kept in any room, space, enclosure, or building owned, leased, or occupied by ~~him~~ or under ~~his~~ the person's management or control an illegal gambling device; or

(b) operate an illegal gambling enterprise.

(2) Subsection (1) does not apply to a public officer or to a person coming into possession of an illegal gambling

device in or by reason of the performance of an official duty and holding it to be disposed of according to law.

(3) (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.

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

(c) A person licensed under subsection (3) may bring an illegal gambling device into the state ~~after-notifying if:~~

(i) the illegal gambling device contains a component that will be used by the licensee to manufacture an illegal gambling device for export from the state; or

(ii) the illegal gambling device will be reconditioned, refurbished, repaired, or otherwise substantially modified in preparation for export from the state; and

(III) THE ILLEGAL GAMBLING DEVICE WILL BE EXPORTED FROM THE STATE; AND

~~(iii)~~ (IV) the licensee has notified the department and receiving received authorization from the department to bring the illegal gambling device into the state. The person licensee is subject to reporting requirements provided for

in rules adopted under subsection (3)(a).

(4) An illegal gambling device may be possessed or located for display purposes only and not for operation:

(a) in a public or private museum; or

(b) in any other public place if the device has been made permanently inoperable for purposes of conducting a gambling activity."

Section 6. Section 23-5-157, MCA, is amended to read:

"23-5-157. Gambling on cash basis. (1) In every gambling activity, except raffles as authorized in 23-5-413, the consideration paid for the chance to play must be cash. A participant shall present the money needed to play the game as the game is being played. A 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. 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.

(2) A person who violates this section is guilty of:

(a) a misdemeanor ~~if--the--total--amount--of--credit extended--or--received--on-a-single-occasion-or-as-part-of-a common-scheme--as-defined-in-45-2-101--is-\$300-or--less~~ and must be punished in accordance with 23-5-161; or

(b) a felony ~~if-the-total-amount-of-credit-extended-or~~

~~received-on-a-single-occasion-or-as-part-of-a-common-scheme, as-defined-in-45-2-101--exceeds-\$300~~ UPON CONVICTION OF A THIRD OR SUBSEQUENT OFFENSE and must be punished in accordance with 23-5-162."

Section 7. Section 23-5-158, MCA, is amended to read:

"23-5-158. Minors not to participate -- penalty -- exception. (1) Except as provided in subsection (2) (3), a person may not purposely or knowingly allow a person under 18 years of age to participate in a gambling activity. A person who violates this subsection is guilty of a misdemeanor and must be punished in accordance with 23-5-161.

(2) Except as provided in subsection (3), a person under 18 years of age may not purposely or knowingly participate in a gambling activity. A person who violates this subsection is subject to a civil penalty not to exceed \$50 if the proceedings for violating this subsection are held in justice's, municipal, or city court. If the proceedings are held in youth court, the offender must be treated as an alleged youth in need of supervision, as defined in 41-5-103. The youth court may enter its judgment under 41-5-523.

(2)(3) A person under 18 years of age may sell or buy tickets for or receive prizes from a raffle conducted in compliance with 23-5-413 if proceeds from the raffle, minus

1 administrative expenses and prizes paid, are used to support
2 charitable activities, scholarships or educational grants,
3 or community service projects."

4 **Section 8.** Section 23-5-160, MCA, is amended to read:

5 "23-5-160. **Shaking dice for a drink or music or in a**
6 **shake-a-day game.** (1) It is legal for a customer in an
7 establishment licensed for the sale of alcoholic beverages
8 to be consumed on the premises to:

9 (a) shake or choose one or more dice, alone or with an
10 owner or employee of the establishment, to determine whether
11 the customer or the establishment shall pay for the
12 customer's drink or to determine whether the customer or the
13 establishment shall immediately pay a predetermined amount
14 of money, not to exceed \$2, for music from a jukebox in the
15 establishment; or

16 (b) play the dice game commonly known as shake-a-day,
17 in which a customer may once each day pay an amount of money
18 predetermined by the establishment, but not more than 50
19 cents, and shake a number of dice predetermined by the
20 establishment in an attempt to roll a certain combination
21 combinations simulating a poker hand hands predetermined by
22 the establishment and,--if, if one of the combination
23 combinations is rolled, the customer may win merchandise or
24 a portion or all of the money paid to play the game since
25 the last winning combination was rolled. The establishment

1 may, before a game begins, limit the amount that will be won
2 and use the remaining money played on that game to start the
3 pot for the next game, thus enhancing the incentive to play
4 the next game in the early stages of the next game. All
5 money paid to play games must be paid out as winnings. An
6 establishment may offer to the public more than one
7 shake-a-day game at any given time.

8 (2) Nothing in this section authorizes the dice game of
9 craps or any other dice game not specifically described in
10 this section."

11 **Section 9.** Section 23-5-306, MCA, is amended to read:

12 "23-5-306. (Temporary) Live card game table -- permit
13 -- fees -- disposition of fees. (1) A person who has been
14 granted an operator's license under 23-5-177 and a license
15 to sell alcoholic beverages for consumption on the premises
16 may be granted an annual permit for the placement of live
17 card game tables. If one or more live card game tables were
18 legally operated on a premises on January 15, 1989, and the
19 premises were not on that date licensed under 16-4-401(2)
20 but were licensed on that date to sell food, cigarettes, or
21 any other consumable product, an operator's license and an
22 annual permit for the placement of live card game tables may
23 be granted to the person who legally operated the premises
24 on January 15, 1989.

25 (2) The annual permit fee in lieu of taxes for each

1 live card game table operated in a licensed operator's
2 premises may not be prorated and must be:

3 (a) \$250 for the first table; and

4 (b) \$500 for each additional table.

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

8 (4) Except as provided in subsection (5), the
9 department shall forward on a quarterly basis the remaining
10 balance of the fee collected under subsection (2) to the
11 treasurer of the county or the clerk, finance officer, or
12 treasurer of the city or town in which the live card game
13 table is located for deposit to the county or municipal
14 treasury. A county is not entitled to proceeds from fees
15 assessed on live card game tables located in incorporated
16 cities and towns within the county. The local government
17 portion of this fee is statutorily appropriated to the
18 department, as provided in 17-7-502, for deposit to the
19 county or municipal treasury.

20 (5) On June 30, 1993, the department shall transfer to
21 the general fund the remaining fund balance from the account
22 funded by this section. (Terminates July 1, 1993--sec. 2,
23 Ch. 18, Sp. L. January 1992.)

24 23-5-306. (Effective July 1, 1993) Live card game table
25 -- permit -- fees -- disposition of fees. (1) (a) A person

1 who has been granted an operator's license under 23-5-177
2 and a license to sell alcoholic beverages for consumption on
3 the premises may be granted an annual permit for the
4 placement of live card game tables.

5 (b) The department may issue an annual permit for the
6 placement of live card game tables to a person operating a
7 premises not licensed to sell alcoholic beverages for
8 consumption on the premises if:

9 (i) If one or more live card game tables were legally
10 operated on a the premises on January 15, 1989,--and--the
11 premises--were--not--on-that-date--licensed-under-16-4-401(2)
12 but;

13 (ii) the premises were licensed on that-date January 15,
14 1989, to sell food, cigarettes, or any other consumable
15 product,--an-operator's-license-and-an-annual-permit-for-the
16 placement-of-live-card-game-tables-may--be--granted--to--the
17 person--who--legally--operated--the--premises-on-January-15,
18 1989;

19 (iii) the person has been granted an operator's license
20 under 23-5-177; and

21 (iv) at the time of application for the permit;

22 (A) the person has continuously operated a live card
23 game table on the premises since January 15, 1989; and

24 (B) the natural person or persons who own the business
25 operated on the premises are the same as on January 15,

1 1989.

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

5 (a) \$250 for the first table; and

6 (b) \$500 for each additional table.

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

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

12 (2) to the treasurer of the county or the clerk, finance
13 officer, or treasurer of the city or town in which the live
14 card game table is located for deposit to the county or
15 municipal treasury. A county is not entitled to proceeds
16 from fees assessed on live card game tables located in
17 incorporated cities and towns within the county. The local
18 government portion of this fee is statutorily appropriated
19 to the department, as provided in 17-7-502, for deposit to
20 the county or municipal treasury."

21 **Section 10.** Section 23-5-312, MCA, is amended to read:

22 "23-5-312. Prizes not to exceed three hundred dollars.

23 (1) A prize for an individual live card game may not exceed
24 the value of \$300. Games may not be combined in any manner
25 so as to increase the value of the ultimate prize awarded.

1 Except during a tournament conducted under 23-5-317, all
2 prizes must be awarded immediately upon completion of each
3 hand.

4 (2) If a licensed operator conducts a promotional game
5 of chance involving a live card game, the prize limit
6 provided for in subsection (1) applies to prizes awarded as
7 a result of the promotional game of chance."

8 **Section 11.** Section 23-5-317, MCA, is amended to read:

9 "23-5-317. Tournaments. (1) Subject to the department's
10 approval, a licensed operator who has a permit for placing
11 at least 1 live card game table on his the operator's
12 premises may conduct up to 12 live card game tournaments a
13 year on his premises. Each tournament may be conducted for
14 no more than 5 consecutive days. If an operator conducts
15 more than one tournament a year, at least 7 days must lapse
16 between the conclusion of one tournament and the beginning
17 of the next tournament.

18 (2) (a) Before the start of a tournament, the operator
19 shall submit to the department an application for a
20 tournament permit. The permit application must be
21 accompanied by a \$10 fee. The department shall retain the
22 fee for administrative purposes.

23 (b) If a tournament is to be conducted on the premises
24 of more than one licensed operator, each operator shall
25 submit a permit application and processing fee. The permit

1 is applied toward each operator's annual 12-tournament
2 limit.

3 (3) Permits for placement of additional live card game
4 tables, as provided in 23-5-306, are not required for
5 additional tables authorized under a tournament permit.

6 (4) Tournament participants must be provided with a
7 copy of the tournament rules before the start of the
8 tournament. A copy of the rules must be posted in a
9 conspicuous location in each area where the tournament is
10 conducted.

11 (5) A person must be present on the premises during the
12 tournament to oversee the conduct of the card games and to
13 settle disputes among players. This person may be a dealer
14 licensed under 23-5-308.

15 (6) Only a dealer licensed under 23-5-308 may deal
16 cards at a poker or panguingue tournament.

17 ~~†6†~~(7) A licensed operator may charge a tournament
18 participant an entry fee, which may include a fee to cover
19 expenses incurred in conducting the tournament. A
20 participant who has been eliminated from competition during
21 the tournament may reenter the tournament by paying an
22 additional fee if permitted to do so under tournament rules.
23 A rake-off may not be taken during a tournament card game.

24 ~~†7†~~(8) The face value of the chips used does not govern
25 the value of the pot awarded at the end of the tournament.

1 ~~†8†~~(9) The provisions of this part and the department
2 rules governing live card games apply to live card games
3 conducted as part of a tournament unless otherwise
4 provided."

5 **Section 13.** ~~Section 23-5-324, MCA, is amended to read:--~~

6 ~~"23-5-324.---Card--room--contractor's--license-----fee---~~
7 ~~submission-of-contract--†1†-it-is-a-misdemeanor-for-a-person~~
8 ~~to-enter-into-a-contract-with-a-licensed-operator-to-operate~~
9 ~~one-or-more-live-card-game-tables-on-the-operator's-premises~~
10 ~~without-obtaining-a-card-room-contractor's-license-from--the~~
11 ~~department;---~~

12 ~~†2†--The--department--shall-charge-an-annual-license-fee~~
13 ~~of-\$150-for-issuing-or-renewing--a--card--room--contractor's~~
14 ~~license.---The---department---shall---retain---the--fee--for~~
15 ~~administrative-purposes;---~~

16 ~~†3†--The--applicant--shall--submit--at---the---time---of~~
17 ~~application--for--a-card-room-contractor's-license-a-copy-of~~
18 ~~the-agreement-entered-into-with-the-licensed-operator;---~~

19 ~~†4†--Operation-of-a-live-card-room-table-by--a--licensed~~
20 ~~card--room--contractor-does-not-relieve-an-operator-of-civil~~
21 ~~or-criminal-liability-for-a-violation-of-parts-1--through--8~~
22 ~~of--this--chapter--or-of-department-rules-that-occurs-on-the~~
23 ~~operator's-premises;---~~"

24 **Section 12.** Section 23-5-412, MCA, is amended to read:

25 ~~"23-5-412. Card prices and prizes -- exception. (1)~~

1 Except as provided in subsection (3):

2 (a) the price for an individual bingo or keno card game
3 CARD may not exceed 50 cents;

4 (b) a prize may not exceed the value of \$100 for each
5 individual bingo award GAME or keno card game CARD; and

6 (c) it is unlawful to, in any manner, combine any
7 awards bingo or keno games so as to increase the ultimate
8 value of the award prize.

9 (2) Bingo and keno prizes may be paid in either
10 tangible personal property or cash.

11 (3) A variation of the game of keno, as approved by the
12 department, in which a player selects three or more numbers
13 and places a wager on various combinations of these numbers
14 is permissible if:

15 (a) no more than 50 cents is wagered on each
16 combination of numbers; and

17 (b) a winning combination does not pay more than \$100.

18 (4) A player may give a keno caller a card with
19 instructions on the card to play that card and its marked
20 numbers for up to the number of successive games that the
21 house allows and that the player has indicated on the card,
22 upon payment of the price per game times the number of
23 successive games indicated. The player shall remain on the
24 house premises until the card is played or withdrawn. The
25 caller shall keep the card until the end of the number of

1 games indicated, and the department may by rule provide that
2 at that time the caller shall pay the player any prizes won.

3 (5) If a licensed operator conducts a promotional game
4 of chance involving bingo or keno, the prize limit provided
5 for in subsection (1) applies to prizes awarded as a result
6 of the promotional game of chance."

7 **SECTION 13. SECTION 23-5-501, MCA, IS AMENDED TO READ:**

8 "23-5-501. Definitions. As used in this part, unless
9 the context clearly requires otherwise, the following
10 definitions apply:

11 (1) "Sports pool" means a gambling activity, other than
12 an activity governed under chapter 4 or chapter 5, part 2,
13 of this title, in which a person wagers money for each
14 chance to win money or other items of value based on the
15 outcome of a sports event or series of sports events wherein
16 the competitors in the sports event or series of sports
17 events are natural persons ~~or animals~~.

18 (2) "Sports tab" means a folded or banded ticket with a
19 face covered to conceal a combination of two numbers, with
20 each number ranging from zero through nine.

21 (3) "Sports tab game" means a gambling enterprise
22 conducted on a card to which 100 sports tabs are attached
23 that have 100 different combinations for which consideration
24 in money is paid by the person purchasing each tab. A person
25 may purchase a sports tab from the card for the chance to

win money or other items of value on a sports event as provided in 23-5-503."

NEW SECTION. Section 14. Distributor's license -- fees. (1) It is a misdemeanor for a person to conduct business as a distributor without first obtaining a distributor's license from the department.

(2) THE EXCEPT AS PROVIDED IN SUBSECTION (6), THE department shall charge an annual license fee of \$1,000 for issuing or renewing a distributor's license. The department shall retain the fee for administrative purposes.

(3) A distributor's license expires June 30 of each year, and the license fee may not be prorated.

(4) Except as provided in subsection (6), the department may charge an additional, one-time license application processing fee to cover the actual cost of processing the original license. The department shall refund any amount of the application processing fee not needed to reimburse the department for actual costs or shall collect an amount sufficient to reimburse the department for actual costs not completely covered by the initial fee charged.

(5) The department shall retain for administrative purposes the license and application processing fees collected under this section.

(6) THE DEPARTMENT MAY WAIVE THE LICENSE FEE PROVIDED FOR IN SUBSECTION (2) IF THE APPLICANT IS LICENSED AS A

MANUFACTURER OR ROUTE OPERATOR AND MAY WAIVE the application processing fee provided for in subsection (4) if the applicant is licensed as a manufacturer, route operator, or operator.

NEW SECTION. Section 15. Route operator's license -- fees. (1) It is a misdemeanor for a person to conduct business as a route operator without first obtaining a route operator's license from the department.

(2) THE EXCEPT AS PROVIDED IN SUBSECTION (6), THE department shall charge an annual license fee of \$1,000 for issuing or renewing a route operator's license. The department shall retain the fee for administrative purposes.

(3) A route operator's license expires June 30 of each year, and the license fee may not be prorated.

(4) Except as provided in subsection (6), the department may charge an additional, one-time license application processing fee to cover the actual cost of processing the original license. The department shall refund any amount of the application processing fee not needed to reimburse the department for actual costs or shall collect an amount sufficient to reimburse the department for actual costs not completely covered by the initial fee charged.

(5) The department shall retain for administrative purposes the license and application processing fees collected under this section.

(6) The department may waive THE LICENSE FEE PROVIDED FOR IN SUBSECTION (2) IF THE APPLICANT IS LICENSED AS A MANUFACTURER OR DISTRIBUTOR AND MAY WAIVE the application processing fee provided for in subsection (4) if the applicant is licensed as a manufacturer, distributor, or operator.

NEW SECTION. Section 16. Allowable compensation for route operator. The compensation that a licensed route operator may receive for leasing a video gambling machine to a licensed operator is limited to a set fee or a percentage of gross machine income, or both a set fee and percentage amount. The route operator may not assume responsibility for any expenses of the operator's business except for expenses associated with:

- (1) paying video gambling machine permit fees and taxes;
- (2) conducting video gambling machine promotional activities;
- (3) maintaining and repairing video gambling machines;
- (4) supplying funds to allow an operator to exchange a player's money for other coin or currency for operating a video gambling machine AND TO PAY OUT PRIZES WON BY PLAYERS;
- (5) providing accounting and recordkeeping services for video gambling machines; and
- (6) other activities, if allowed by department rule.

Section 17. 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 gambling machine, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, metering devices, and cabinetry.

(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 directly dispenses coins, cash, tokens, or anything else of value.

(3) "Draw poker machine" means an electronic video gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker 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 directly dispenses coins, cash, tokens, or anything else of value.

(4) "Gross income" means money put into a video gambling machine minus credits paid out in cash.

(5) "Keno machine" means an electronic video gambling machine that, upon insertion of cash, is available to play keno 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 directly dispenses coins, cash, tokens, or anything else of value.

(6) "Video gambling machine manufacturer-distributor" means a person who assembles, produces, makes, or supplies video gambling machines or associated equipment for sale, use, or distribution in the state."

Section 19. Section 23-5-611, MCA, is amended to read:

"23-5-611. Machine permit qualifications. Limitations. (1) (a) A person who has been granted an operator's license under 23-5-177 and a license to sell alcoholic beverages for consumption on the premises may be granted a permit for the placement of video gambling machines in his premises.

(b) 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 to sell alcoholic beverages for consumption on the premises or operated for the principal purpose of gaming and there is an operator's license for the premises under 23-5-177, 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 the machines on those premises on that date, subject to the provisions of subsection (1)(d).

(c) A person who legally operated an establishment on January 15, 1989, for the principal purpose of gaming and has been granted an operator's license under 23-5-177 may be granted a permit for the placement of bingo and keno machines in his premises, subject to the provisions of subsection (1)(d).

(d) The department may issue an annual permit under subsection (1)(b) or (1)(c) if at the time of application for the permit:

(i) the person has continuously operated the video gambling machine on the premises since January 15, 1989, and

(ii) the natural person or persons who own the business operated on the premises are the same as on January 15, 1989.

(2) An applicant for a permit shall disclose on the

1 application-form-to-the-department-any-information--required
2 by---the---department--consistent--with--the--provisions--of
3 23-5-176.

4 {3}--A-licensee-may-not-have-on--the--premises--or--make
5 available--for-play-on-the-premises-more-than-20-machines-of
6 any-combination."

7 **Section 18.** Section 23-5-625, MCA, is amended to read:

8 "23-5-625. Video gambling machine
9 manufacturer-distributor manufacturer -- license -- fees --
10 restrictions. (1) {a}-Except-as-provided-in-subsections-{2}
11 and-{3},-it is unlawful for any person to assemble,
12 produce, or manufacture--or--supply any video gambling
13 machine or associated equipment for use or play in the state
14 without having first been issued a video gambling machine
15 manufacturer-distributor's manufacturer's license by the
16 department. A licensed manufacturer-distributor manufacturer
17 may supply a video gambling machine only to another licensed
18 manufacturer-distributor manufacturer or to a licensed
19 distributor, route operator, or operator.

20 {b}{2} The EXCEPT AS PROVIDED IN SUBSECTION (6), THE
21 department shall charge an annual license fee of \$1,000 for
22 the issuance or renewal of a video gambling machine
23 manufacturer-distributor's manufacturer's license.

24 {c}{3} In-addition-to-other--license--fees Except as
25 provided in subsection (6), the department may charge the

1 applicant a an additional, one-time video gambling machine
2 manufacturer-distributor's manufacturer's license
3 application processing fee. The application processing fee
4 may not exceed the department's actual costs for processing
5 an application.

6 {d}{4} All video gambling machine
7 manufacturer-distributor's manufacturer's licenses expire on
8 June 30 of each year, and the license fee may not be
9 prorated.

10 {e}{5} The department shall retain the license and
11 processing fees collected for purposes of administering this
12 part, unless otherwise provided.

13 {2}--A--licensed--operator--who--is--not--licensed--as-a
14 manufacturer-distributor-may-sell-up-to--20--video--gambling
15 machines-in-a-calendar-year-if-the-operator-

16 {a}--had--obtained--permits-for-the-machines-and-legally
17 operated-them-prior-to-the-sale,-and

18 {b}--sells-the-machines-to-another-licensed-operator--or
19 a-licensed-manufacturer-distributor-

20 {3}--A--lienholder--who-acquires-title-to-video-gambling
21 machines-through-a-foreclosure-action-involving--a--licensed
22 operator--or--manufacturer-distributor-may-sell-the-machines
23 to-a-licensed-operator-or-licensed-manufacturer-distributor-

24 (6) The department may waive THE LICENSE FEE PROVIDED
25 FOR IN SUBSECTION (2) IF THE APPLICANT IS LICENSED AS A

DISTRIBUTOR OR ROUTE OPERATOR AND MAY WAIVE the application processing fee provided for in subsection (3) if the applicant is licensed as a distributor, route operator, or operator."

NEW SECTION. Section 19. Sale of video gambling machines by operator or lienholder. (1) A licensed operator who is not licensed as a manufacturer, distributor, or route operator may sell up to 20 video gambling machines in a calendar year if the operator:

(a) had obtained permits for the machines and legally operated them prior to the sale; and

(b) sells the machines to another licensed operator or to a licensed manufacturer, distributor, or route operator.

(2) A lienholder who acquires title to video gambling machines through a foreclosure action involving a licensed manufacturer, distributor, route operator, or operator may sell the machines to a licensed manufacturer, distributor, route operator, or operator.

Section 20. Section 23-5-631, MCA, is amended to read:

"23-5-631. Examination and approval of new video gambling machines and associated equipment -- fee. (1) The department shall examine and may approve a new video gambling machine and or associated equipment or a modification to an approved machine or associated equipment which are that is manufactured, sold, or distributed for use

in the state before the video gambling machine or associated equipment is sold, played, or used.

(2) A video gambling machine or associated equipment or a modification to an approved machine or associated equipment may not be examined or approved by the department until the video gambling machine manufacturer-distributor manufacturer is licensed as required in 23-5-625.

(3) All video gambling machines or associated equipment approved by the department of commerce prior to October 1, 1989, must be considered approved under this part.

(4) The department shall require the manufacturer-distributor manufacturer seeking the examination and approval of a new video gambling machine or associated equipment or a modification to an approved machine or associated equipment to pay the anticipated actual costs of the examination in advance and, after the completion of the examination, shall refund overpayments or charge and collect amounts sufficient to reimburse the department for underpayments of actual costs.

(5) Payments received under subsection (4) are statutorily appropriated to the department, as provided in 17-7-502, to defray the costs of examining and approving video gambling machines and associated equipment and modifications to approved machines and associated equipment and to issue refunds for overpayments.

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

Section 21. Section 23-6-104, MCA, is amended to read:

"23-6-104. Amusement games allowed. (1) Crane games, as defined in 23-6-101, and the games described in subsection (2) may be made available for public play.

(2) (a) Fish pond (duck pond). The player catches a fish or other object floating in a pond of water by using a pole, hand, net, or string. All fish or objects are marked on the bottom, indicating the size of prize the player wins. The player is awarded a prize each time, and the player must be allowed to continue playing until a prize is won.

(b) Hoop or ring toss. The player tosses a hoop or ring over a target that must consist of bottles, pegs, blocks, or prizes. The operator shall specifically advise the player as to the degree that the hoop or ring must go over the target. All hoops of the same color used at an individual stand must be the same size. All targets used at an individual booth must be the same size, or the operator shall advise the player by posting signs or using color codes denoting the different sizes.

(c) Dart games. The target area for all dart games must

be of a material capable of being penetrated and of retaining a metal tip dart. The target area must be in the rear of the stand and must be at least 3 feet but not more than 15 feet from the foul line. A target must be stationary at all times.

(i) Balloon (poparoo) (balloon smash). The targets are inflated balloons. The player throws one or more darts to burst a predetermined number of balloons. If the predetermined number of balloons are burst by the darts, the player receives the prize indicated.

(ii) Dart throw. The targets are various sizes and shapes located on the target area. The player throws darts individually at the target. A dart must stick in a predetermined target to win the prize as designated.

(iii) Tic tac toe dart. The target is a tic tac toe board located in the target area. The player throws darts at the target and wins a designated prize when the thrown darts line up in a row in the target. The darts may line up vertically, horizontally, or diagonally to win.

(iv) Add-um-up darts. The target consists of numbered squares located in the target area. Prizes are awarded based on the total score obtained by the player by throwing and sticking the darts in the numbered squares. A dart that sticks on a line must be thrown again. The player may add up the score of the darts thrown.

(d) Ball tosses. In all ball toss games, the balls used at a specific stand must be of the same weight and size. Targets must be of the same weight and size, or the operator shall color code the targets and advise the player of the difference in targets by posting a sign or providing a duplicate of the target showing the limitations or restrictions. The sign or duplicate target must be readily visible to the player.

(i) Milk bottle toss. The player tosses or throws balls at simulated milk bottles. The player wins by either tipping over or knocking bottles off the raised platform as designated by the operator. The bottles may be constructed of wood, metal, or plastic or a combination of the three. Operators may vary the number of bottles and balls used in each game. Floating or loose weights in bottles are not allowed. The weight of individual bottles may not exceed 7 1/2 pounds.

(ii) Milk can (Mexican hat) (cone). The player tosses a ball into the opening of a milk can, into a fiberglass Mexican hat turned upside down, or through a cone to win.

(iii) Football toss (tire toss). The player tosses or throws a football through a stationary tire or hoop to win.

(iv) Basketball toss/throw. The player tosses or throws a basketball through a hoop to win.

(v) Bushel baskets. The player tosses balls into a

bushel basket mounted on a stationary backdrop at a fixed angle. The balls must stay in the basket to win. Rim shots are allowed, except the operator may designate the top 6 inches of the basket rim by color and disallow balls striking this area as winning tosses.

(vi) Cat-ball-toss (star/diamond toss). The player tosses balls into a simulated cat's mouth or a round, diamond, or star-shaped hole to win.

(vii) Ping pong toss. The player tosses ping pong balls into dishes, saucers, cups, or ashtrays floating in water. A predetermined number of balls must remain in the dishes, saucers, cups, or ashtrays for the player to win. The dishes, saucers, cups, or ashtrays must have water covering the bottom of the surface that is facing up.

(viii) Fishbowl game. The player tosses ping pong balls into a water-filled fish bowl to win.

(ix) Volleyball toss (soccer ball). The player tosses a volley or soccer ball into a keg-type container mounted on a stationary backdrop at a fixed angle. The ball must stay in the keg to win a prize. Rim shots are authorized as stated in subsection (2)(d)(v) for bushel baskets.

(x) Goblet ball (whiffle ball). The player tosses a whiffle ball into a target area of glass or plastic goblets. Located in the target area are colored goblets that determine the type of prize the player wins. At least 33% of

1 the goblets in the target area must be winners. The ball
2 must stay in the goblet to win a prize.

3 (xi) Break the plate/bottle. The player tosses or throws
4 a ball at a plate, phonograph record, or bottle. The type of
5 prize won is determined by the number of targets broken by
6 the player.

7 (xii) Punk rack. The targets for this game are rows of
8 dolls or cats on a ledge at the rear of the stand. The dolls
9 or cats must be filled with sawdust, styrofoam, cotton, or
10 other like material that provides a firm base for the ball
11 to strike. The hair protruding from the side of the dolls or
12 cats may not exceed 3 inches. The prize is determined by how
13 many dolls or cats the player knocks over or off the ledge,
14 as posted by the operator.

15 (xiii) Teeth game. The target consists of a large face
16 with wooden teeth. The prize is determined by how many teeth
17 the player knocks down by throwing a ball.

18 (xiv) Toilet game (doniker). To win, the player tosses
19 or throws a ball or other object through a toilet seat
20 located at the rear of the stand.

21 (xv) Coke roll. The player rolls a ball down an alley
22 with the object of knocking over two coke bottles standing
23 at the end of the alley. The player must tip over both
24 bottles to win. Bottles must be placed on predetermined
25 spots painted on the surface of the alley.

1 (xvi) Rolldown. The player rolls balls down an alley
2 with the object of putting the balls in numbered slots at
3 the end of the alley. The scores represented by the balls in
4 each numbered slot are added up at the conclusion of the
5 game. Scores above or below a predetermined score win. The
6 alley surface must be smooth and free from defects at all
7 times.

8 (xvii) Fascination (I got it). Fascination is a group
9 game that involves competition among the players. The target
10 area consists of 25 holes, and the player tosses or rolls a
11 ball into one of the holes. The object of the game is to get
12 five balls in a row either vertically, horizontally, or
13 diagonally. The first player to accomplish this is the
14 winner. Prize size is determined by the number of players
15 participating in each game.

16 ~~{xviii}-Cakewalk--The--players--walk-on-a-predetermined~~
17 ~~route-with-designated-spots,-and-when-the-operator-stops-the~~
18 ~~walk,-the-player-on-a-predetermined-spot-wins-a-prize-~~

19 {xix}{xviii} Batter-up. The player uses a whiffle ball
20 bat to swing and strike whiffle balls that are pitched at
21 medium speed from a pitching machine. The player wins when
22 he the player hits a ball into the home run shelf. The home
23 run shelf is located at the back of the batting cage
24 approximately 15 feet from the player.

25 {**}{xix} Sky bowling. Two bowling pins are set on

1 predetermined painted spots on a shelf. A ball is attached
2 to a chain suspended from a stationary support at least 6
3 inches to the right or left of the bowling pins. The object
4 is to swing the ball, miss the pins with the ball as it goes
5 forward, and knock the pins over as the ball returns.

6 †xx†(xx) Clown rolldown. A ball is tossed through the
7 open mouth of a moving clown or animal head. The ball then
8 rolls down a chute to numbered slots at the rear of the
9 clown or animal head. The scores represented by the balls in
10 each numbered slot are added up at the conclusion of the
11 game. Prizes are awarded on the points achieved.

12 †xx††(xxi) Skee ball. The player rolls a ball up the
13 mechanical bowling alley into targets. A computer adds up
14 the scores, and the predetermined scores win.

15 †xx†††(xxii) Speedball radar game. The player gets four
16 balls and throws three balls through radar to establish
17 speeds and to estimate at what speed the fourth ball will
18 pass through the radar. The player wins a prize if he the
19 player accurately estimates the speed of the fourth ball.
20 The radar must be mounted and stationary.

21 (e) Shooting games. These games are conducted by the
22 player using a weapon of some type to shoot at a target in
23 the rear of the stand. The safety requirements of local city
24 or county ordinances must be observed by the operator and
25 player. The target may be stationary or mobile.

1 (i) Short range (shooting gallery). In this game, the
2 player is given four rounds to shoot at a spot target 1/4
3 inch or less in diameter. The player wins when the spot
4 target is completely shot out, or the player is given five
5 rounds to shoot one round each at five triangular, round, or
6 1/2-inch square targets. The prize is determined by the
7 number of targets struck by the player, or the player is
8 given five rounds to shoot one round each at five
9 triangular, round, or 1/2-inch square targets. Within each
10 target is a bull's eye. The player must hit the bull's eye
11 without touching the outer surface of the target. The prize
12 is determined by the number of bull's eyes correctly hit.

13 (ii) Shoot-out-the-star (machine gun). The player, using
14 an automatic air pellet gun, is given 100 pellets to shoot
15 at a star-shaped target. The player must shoot out all of
16 the target to win. The star cannot be more than 1 1/4 inches
17 from point-to-point.

18 (iii) Water racer. This group game involves a
19 competition, with the player winning a prize based on the
20 number of players competing. The player, using a water
21 pistol, shoots the water into a target. The water that
22 strikes the target causes a balloon to inflate or advances
23 an object to ring a bell. The first player who bursts the
24 balloon or rings the bell is the winner.

25 (iv) Rapid fire. This group game involves competition

similar to the water racer game described in subsection (2)(e)(iii). The player uses an electronic pistol to shoot at a target. Hits on the target give the player a score. The first player to reach a predetermined score is the winner.

(v) Cork gallery. The player uses a cork gun or similar device to propel objects, including but not limited to corks, suction cup darts, or styrofoam balls, to shoot at targets located on a shelf or at a bull's eye target. The player must hit the bull's eye or knock the target over or off the shelf to win a prize. The prize is determined by the target knocked over or off the shelf, by the number of targets knocked over or off the shelf, or by the player accomplishing other tasks, as stated in the posted rules. When suction cup darts or other darts are used and fail to stay on or in the target, the player must shoot the dart again. The base of each target must be uniform, front and rear.

(vi) Boomball. The player uses a cannon with compressed air to propel balls into a target area. The targets have varied point value. If the ball remains in the target, a computer adds up the score. Prizes are awarded based on the points achieved.

(f) Coin pitchers.

(i) Spot pitch (lucky strike). The player pitches a coin at colored spots located on a table in the center of

the stand. The coin must touch or stay inside of a spot to win a prize.

(ii) Plate pitch. The player pitches a coin onto a glass plate to win a prize as designated.

(iii) Glass pitch (bowl). The player pitches a coin into or onto dishes or glasses. If the coin remains in a top target glass item, then the player wins that item.

(g) Cakewalk. The players walk on a predetermined route with designated spots, and when the operator stops the walk, the player on a predetermined spot wins a prize.

~~(g)(h)~~ Miscellaneous games.

(i) Skill chute (bulldozer) (penny fall).

(A) The games in each of the following sentences require the The player inserts to insert a coin or token into a chute, aiming the coin or token so that it will fall in front of a continuous sweeper (bulldozer) operating on a playing field containing additional coins, tokens, or merchandise. if the A coin or token that is aimed correctly, the will cause a sweeper (bulldozer) will operating on a playing field containing additional coins to push additional tokens-or-prizes coins into a counting mechanism that will convert the coins into tokens or tickets and dispense them to the player. A token that is aimed correctly will cause a sweeper (bulldozer) operating on a playing field containing additional tokens or merchandise to push the tokens or

1 merchandise into a hole or chute that sends them to the
 2 player. A token that is aimed correctly will cause a sweeper
 3 (bulldozer) operating on a playing field containing
 4 additional tokens to push tokens into a hole or chute that
 5 sends them to the player or pushes tokens into a counting
 6 mechanism that will convert the tokens into tickets and
 7 dispense them to the player.

8 (B) Tokens-are-exchanged-for--prizes---if--there---is--a
 9 hidden There may not be a ledge, tip, or similar obstruction
 10 that inhibits the passage of coins, tokens, or prizes
 11 merchandise into the counting mechanism, hole, or chute that
 12 sends-them-to-the-player,-the-operator-snail-post-a-sign--to
 13 advise-the-players.

14 (ii) Tip-em-up bottle. The player is provided with a
 15 pole and a string that has a hoop or ring attached at the
 16 end. The player, using the pole with a ring, must raise a
 17 bottle lying on its side to an upright position to win.

18 (iii) Hi-striker. The player, using a wooden maul, must
 19 strike a lever target that causes a metal weight to rise on
 20 a guideline or track and ring a bell. The player must ring
 21 the bell a predetermined number of times to win a prize.

22 (iv) Rope ladder. The player must climb up a rope
 23 ladder, which is anchored at both ends by a swivel, and ring
 24 a bell or buzzer to win a prize.

25 (v) Whac-a-mole. This is a group game that has a target

1 surface with five holes through which animated moles pop up
 2 and down at random. The player must hit as many moles as
 3 possible with a mallet. The first player to hit a
 4 predetermined number of moles wins.

5 (vi) Dip bowling game. The player rolls a bowling-type
 6 ball over a hump in the track. If the ball stays on the back
 7 side of the hump, the player wins.

8 (vii) Horserace derby. This is a group game in which a
 9 player advances his a horse by shooting or rolling a ball in
 10 the target area. The faster and more skillfully the player
 11 shoots or rolls his a ball, the faster his the player's
 12 horse will run. The first horse to cross the finish line
 13 wins.

14 (viii) Shuffleboard. The player pushes a puck down a
 15 shuffleboard alley to knock over poly pins at the end of an
 16 alley. The player wins by knocking down all the pins.

17 (ix) Bean bag. The player tosses or throws a bean bag or
 18 a simulated bean bag at cans, bottles, or other objects on a
 19 raised platform. The player wins a prize when he either
 20 knocks the object off the raised platform or tips the target
 21 over.

22 (x) Soccer kick. The player kicks a soccer ball through
 23 a hole in the target area to win.

24 (xi) Frog game. A plastic frog or similar object sits on
 25 a small end of a teeter-totter. The opposite end of the

1 teeter-totter is struck with a mallet, causing the frog to
2 fly off the teeter-totter. If the frog lands in a pail or
3 similar receptacle, the player wins a prize.

4 (xii) Cover the spot. The object of this game is for the
5 player to drop five circular discs onto a circular spot,
6 completely covering the spot. The diameter of each of the
7 discs used to cover the spot must be a minimum of 64% of the
8 diameter of the spot to be covered. The spot to be covered
9 must be painted or drawn on a permanent, solid material,
10 such as metal or wood, or may be a lighted circle. The spot
11 and each disc must have a uniform diameter.

12 (xiii) Pocket billiards. Using a regulation pocket
13 billiard table, a player must run a consecutive number of
14 balls to win a prize. The number of balls is set by the
15 operator."

16 **Section 22.** Section 41-5-203, MCA, is amended to read:

17 "41-5-203. Jurisdiction of the court. (1) Except as
18 provided in subsection (2), the court has exclusive original
19 jurisdiction of all proceedings under the Montana Youth
20 Court Act in which a youth is alleged to be a delinquent
21 youth, a youth in need of supervision, or a youth in need of
22 care or concerning any person under 21 years of age charged
23 with having violated any law of the state or ordinance of
24 any city or town other than a traffic or fish and game law
25 prior to having become 18 years of age.

1 (2) Justice, municipal, and city courts have concurrent
2 jurisdiction with the youth court over all alcoholic
3 beverage and gambling violations alleged to have been
4 committed by a youth."

5 NEW SECTION. SECTION 23. PAYROLL CHECKS -- PROMOTIONAL
6 ACTIVITIES PROHIBITED. A LICENSEE MAY NOT OFFER FINANCIAL
7 INCENTIVES OR CONDUCT PROMOTIONAL GAMES OF CHANCE IN
8 CONNECTION WITH AN OFFER TO CASH PAYROLL CHECKS ON THE
9 PREMISES.

10 NEW SECTION. Section 24. Codification instruction.
11 [Sections 57-15-through-177-and-21 20 4, 14 THROUGH 16, AND
12 19, AND 23] are intended to be codified as an integral part
13 of Title 23, chapter 5, and the provisions of Title 23,
14 chapter 5, apply to [sections 57-15-through-177-and-21 20 4,
15 14 THROUGH 16, AND 19, AND 23].

16 NEW SECTION. Section 25. Applicability. [Section 17
17 16] applies to agreements entered into after October 1,
18 1993.

-End-