

HOUSE BILL 598

Introduced by Pavlovich, et al.

2/12	Introduced
2/12	Referred to Judiciary
2/12	First Reading
2/12	Fiscal Note Requested
2/17	Hearing
2/17	Tabled in Committee
2/18	Fiscal Note Printed
2/18	Fiscal Note Received

1 *House* BILL NO. *598*
2 INTRODUCED BY *Anthony Merathan*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING AND
5 REGULATING PUNCHBOARD AND PULLTAB GAMES; PROVIDING
6 QUALIFICATIONS FOR A LICENSE TO MANUFACTURE OR DISTRIBUTE
7 AUTHORIZED GAMES AND FOR A PERMIT TO OFFER GAMES TO THE
8 PUBLIC; PROVIDING FOR A STATUTORY APPROPRIATION AND
9 DISTRIBUTION OF REVENUE; PROVIDING PENALTIES; AND AMENDING
10 SECTION 17-7-502, MCA."

11
12 STATEMENT OF INTENT

13 A statement of intent is required for this bill because
14 [section 7] gives the department of justice authority to
15 adopt rules. It is the intent of the legislature that rules
16 be adopted to protect the health, welfare, and safety of the
17 citizens of Montana and to ensure compliance with this bill.

18 The rules should, at a minimum:

- 19 (1) ensure the integrity and security of punchboard and
20 pulltab games;
21 (2) provide a method of examining the qualifications of
22 license and permit applicants;
23 (3) provide for investigation procedures; and
24 (4) provide a procedure for monitoring the games in
25 play to ensure their compliance with this bill.



1
2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

3 NEW SECTION. Section 1. Short title. [Sections 1
4 through 13] may be cited as the "Punchboard and Pulltab
5 Games Control Act".

6 NEW SECTION. Section 2. Definitions. As used in
7 [sections 1 through 13], the following definitions apply:

- 8 (1) "Department" means the department of justice.
9 (2) "Distributor" means an individual, partnership,
10 corporation, or association that sells, markets, or
11 otherwise distributes punchboard or pulltab games.
12 (3) "Licensee" means an individual, partnership,
13 corporation, or association that has been issued a license
14 by the department.
15 (4) "Manufacturer" means an individual, partnership,
16 corporation, or association that designs, assembles,
17 fabricates, produces, constructs, or otherwise prepares a
18 product or component part of a product that is authorized
19 for use under [sections 1 through 13].
20 (5) "Permittee" means an individual, partnership,
21 corporation, or association that has been issued a permit by
22 the department.
23 (6) "Pulltab" means a folded or banded ticket or a card
24 with a face covered to conceal one or more numbers or
25 symbols, with one or more of each set of tickets or cards

1 designated in advance as a winner.

2 (7) "Punchboard" means a board or device containing a
3 number of holes or receptacles of a uniform size in which
4 are placed, mechanically and at random, serially numbered
5 slips of paper, some of which have been designated in
6 advance as winners, that may be punched or drawn from a hole
7 or receptacle.

8 NEW SECTION. Section 3. Licensure -- restriction. (1)
9 A person may not possess, place, manufacture, distribute, or
10 offer for play a punchboard or pulltab game unless the
11 person has a permit issued under [section 4] or a license
12 issued under [section 5].

13 (2) A person under 18 years of age may not play,
14 possess, or offer for play a punchboard or pulltab game.

15 NEW SECTION. Section 4. Retail permit qualifications
16 -- right to hearing. (1) A person who has been granted an
17 operator's license under 23-5-177 and a license to sell
18 alcoholic beverages for consumption on the premises may be
19 granted a permit by the department for offering punchboard
20 and pulltab games to the public at the licensed
21 establishment.

22 (2) A person who is denied a permit has the right to a
23 hearing before the department. The hearing must be conducted
24 in accordance with the Montana Administrative Procedure Act.

25 NEW SECTION. Section 5. Manufacturer's or

1 distributor's license -- qualifications -- right to hearing.

2 (1) It is unlawful for any person to manufacture for sale in
3 this state, sell, or distribute any punchboard or pulltab
4 game unless the person has been issued a license by the
5 department.

6 (2) An applicant for issuance or renewal of a
7 distributor's license must have been a resident of the state
8 for 30 days prior to application.

9 (3) An applicant for issuance or renewal of a
10 manufacturer's or distributor's license shall:

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

13 (b) supply any information that the department
14 considers reasonably necessary to determine suitability for
15 licensure; and

16 (c) establish to the reasonable satisfaction of the
17 department that the applicant's past record and present
18 status as a manufacturer or distributor of gambling devices
19 and as a business person and citizen demonstrate that the
20 applicant is likely to conduct business in compliance with
21 all laws.

22 (4) A person denied a license has the right to a
23 hearing before the department. The hearing must be conducted
24 in accordance with the Montana Administrative Procedure Act.

25 NEW SECTION. Section 6. Fees -- use of fees --

1 expiration of license or permit. (1) The department shall
2 charge the following annual fees:

3 (a) for a retail permit, \$100;

4 (b) for a distributor's license, \$1,000; and

5 (c) for a manufacturer's license, \$2,000.

6 (2) A license or permit issued by the department
7 expires on the following June 30, and the fee may not be
8 prorated.

9 (3) The department shall retain the fees for the
10 purpose of administering [sections 1 through 13]. There is
11 an account in the state special revenue fund into which
12 money from the fees must be deposited. The money in the
13 account is statutorily appropriated, as provided in
14 17-7-502, to the department for the purpose of administering
15 [sections 1 through 13].

16 NEW SECTION. Section 7. Powers and duties of
17 department. (1) The department shall adopt rules to
18 implement [sections 1 through 13] and:

19 (a) with respect to licenses and permits:

20 (i) provide reasonable procedures;

21 (ii) prescribe reasonably necessary forms; and

22 (iii) grant or deny license and permit applications;

23 (b) with respect to the tax provided for in [section
24 9]:

25 (i) prescribe reasonable recordkeeping requirements for

1 licensees;

2 (ii) provide a reasonable procedure for inspection of
3 records; and

4 (iii) establish reasonable penalties for the delinquent
5 reporting and payment of the tax;

6 (c) establish the design, format, and criteria that a
7 punchboard or pulltab game must meet in order to be
8 authorized for play in the state.

9 (2) The department is a criminal justice agency, and
10 designated employees are granted peace officer status with
11 the powers of search, seizure, and arrest to regulate and
12 control persons who offer or make available punchboard and
13 pulltab games.

14 NEW SECTION. Section 8. Punchboard and pulltab games
15 -- costs -- prizes. The price per ticket for a punchboard or
16 pulltab game may not exceed \$2. Each game must comply with
17 standards promulgated by the department and must award
18 prizes at a minimum of 70% of the gross value of the game.
19 All winning possibilities must be displayed.

20 NEW SECTION. Section 9. Tax -- records -- distribution
21 -- quarterly statement and payment. (1) Each licensed
22 distributor of punchboard and pulltab games shall:

23 (a) collect, at the time of sale of a punchboard or
24 pulltab game to a retail permittee, a tax of 5% of the gross
25 value of the game;

(b) submit, within 15 days after the end of each calendar quarter, the proceeds of the tax and any forms and reasonable information the department may require; and

(c) keep a record of all taxes collected in the manner that the department may require. The records must be available for inspection by the department or its agents or employees at all times during the business hours of the licensee.

(2) The department shall:

(a) retain 10% of the tax for the purpose of administering [sections 1 through 13];

(b) deposit one-third of the remainder of the tax in the general fund; and

(c) forward the remainder of the tax to the treasurer or finance officer of the city or town in which the authorized game is offered or to the treasurer or finance officer of the county if the game is not offered in a city or town; for deposit to the treasury.

(3) The department's 10% share of the tax must be deposited in the account created in [section 6].

NEW SECTION. Section 10. Criminal offenses. A knowing or purposeful violation of [sections 1 through 13] or of a rule promulgated under the provisions of [sections 1 through 13] is a criminal offense and upon conviction is punishable by a fine not to exceed \$500 for the first offense, not to

exceed \$1,000 for a second offense, and not to exceed \$2,000 for a third or subsequent offense. A person's license or permit must be revoked upon a fourth conviction.

NEW SECTION. Section 11. Tampering violation. A person may not knowingly or purposely tamper with or conspire to tamper with a punchboard or pulltab game or the play of a game to influence the outcome of the game.

NEW SECTION. Section 12. Civil penalties -- hearing. If the department determines after a contested case hearing that a licensee or permittee has violated a provision of [sections 1 through 13] or the department's rules, the department may, in addition to the other penalties prescribed:

(1) suspend the license or permit for a period of not more than 180 days;

(2) place a licensee or permittee on probation and set terms of the probation;

(3) deny renewal of the license or permit on expiration;

(4) revoke a license or permit; or

(5) impose a combination of any two of the penalties set forth in subsections (1) through (3).

NEW SECTION. Section 13. Judicial review of agency decision. (1) An interested party has the right to judicial review of a final decision of the department concerning the

granting, denial, renewal, revocation, or suspension of a license or permit.

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

Section 14. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007;

19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; [section 6]; 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150; 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 22-3-811 terminates June 30, 1993.)"

LC 1380/01

1 **NEW SECTION.** **Section 15.** Codification instruction.
2 [Sections 1 through 13] are intended to be codified as an
3 integral part of Title 23, chapter 5, and as a separate part
4 in chapter 5, and the provisions of Title 23, chapter 5,
5 part 1, apply to [sections 1 through 13].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0598, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act authorizing and regulating punchboard and pulltab games; providing qualifications for a license to manufacture or distribute authorized games and for a permit to offer games to the public.


ASSUMPTIONS:

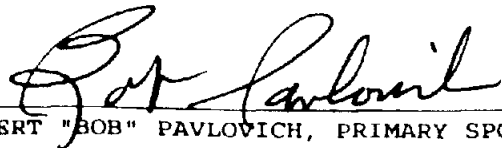
1. The average per capita amount spent on gambling using punchboard and pulltab games is \$100 per year. Montana's population is approximately 800,000. The total gross value of punchboard and pulltab games is estimated to be \$80,000,000 per year.
2. The total gross value tax of 5% will generate annual revenue of \$4,000,000. 60% of the revenue will be distributed to cities and counties, 30% to the state general fund, and 10% retained for administration and regulation expenses.
3. Annual license revenue is based upon estimates of 1,780 retail licenses, 10 distributor licenses, and 5 manufacturer licenses. Total license revenue, which is to be retained in the gambling license fee account for administrative expenses, is estimated to be \$198,000 per year.
4. The Department of Justice assumes that the increased workload for the Gambling Control Division will necessitate an increase of 12.00 FTE (9.00 FTE in FY94) for licensing and regulation purposes. The composition of the FTE is estimated to be six Grade 16 investigators, two Grade 14 revenue agents, one Grade 14 game tester, one Grade 11 compliance technician, one Grade 11 license technician, and one Grade 8 administrative clerk. The department also assumes that the new staff will require initial equipment acquisitions of \$171,000 in FY94.
5. The introduction and play of these games will not detract from the revenue generated from play of other games. (Note: an impact is likely, but the Department of Justice cannot determine what games will be impacted and the possible resulting loss of revenue).
6. The bill will have an October 1, 1993 effective date.

FISCAL IMPACT: Department of Justice - Gambling Control Division:

	FY '94			FY '95		
<u>Expenditures:</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	34.00	43.00	9.00	34.00	46.00	12.00
Personal Services	1,202,000	1,492,200	290,200	1,207,400	1,595,500	388,100
Operating Expenses	365,600	451,900	86,300	368,900	483,900	115,000
Equipment	<u>50,400</u>	<u>221,400</u>	<u>171,000</u>	<u>50,400</u>	<u>50,400</u>	<u>0</u>
Total	1,618,000	2,165,500	547,500	1,626,700	2,129,800	503,100
<u>Funding:</u>						
State Special Revenue	1,618,000	2,165,500	547,500	1,626,700	2,129,800	503,100
<u>Revenues:</u>						
General Fund	0	900,000	900,000	0	1,200,000	1,200,000
State Special Revenue	0	498,000	498,000	0	598,000	598,000
Cities and Counties	<u>0</u>	<u>1,800,000</u>	<u>1,800,000</u>	<u>0</u>	<u>2,400,000</u>	<u>2,400,000</u>
Total	0	3,198,000	3,198,000	0	4,198,000	4,198,000

(continued)

 2-18-93
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 2/18/93
 ROBERT "BOB" PAVLOVICH, PRIMARY SPONSOR DATE

Fiscal Note for HB0598, as introduced

HB598

Fiscal Note Request, HB0598, as introduced
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(continued)

Net Impact to General Fund	900,000	1,200,000
Net Impact to State Special Revenue	(49,500)	94,900

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Local governments would receive 60% of the tax revenue resulting in \$1,800,000 in FY94 and \$2,400,000 in FY95.

HB 598