

SENATE BILL NO. 51
INTRODUCED BY BIANCHI

IN THE SENATE

DECEMBER 23, 1992	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
JANUARY 4, 1993	FIRST READING.
FEBRUARY 19, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 20, 1993	PRINTING REPORT.
	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 22, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 23, 1993	SECOND READING, DO PASS.
	ENGROSSING REPORT.
FEBRUARY 24, 1993	THIRD READING, PASSED. AYES, 34; NOES, 14.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 1, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 3, 1993	ON MOTION, REREFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
MARCH 9, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 13, 1993	SECOND READING, CONCURRED IN AS AMENDED.
MARCH 24, 1993	THIRD READING, CONCURRED IN. AYES, 62; NOES, 38.
MARCH 25, 1993	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 27, 1993

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 29, 1993

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

SENATE BILL NO. 51

INTRODUCED BY BIANCHI

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT AN APPLICANT FOR A GAMBLING OPERATOR'S LICENSE BE GRANTED A PROVISIONAL LICENSE WITHIN 5 DAYS OF APPLICATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1.** Provisional operator's license. An applicant for an operator's license must be issued a provisional operator's license within 5 working days from the date on which the department receives the application. The holder of a provisional license has the same rights and duties under this chapter as the holder of an operator's license. The provisional license is valid until the operator's license is granted or denied. Issuance of a provisional license creates no presumption or evidence that the applicant is qualified for an operator's license. The fee for a provisional license is \$25, which the department shall retain for purposes of processing the license.

NEW SECTION. **Section 2.** Codification instruction. [Section 1] is intended to be codified as an integral part of Title 23, chapter 5, part 1, and the provisions of Title

23, chapter 5, apply to [section 1].

NEW SECTION. **Section 3.** Effective date. [This act] is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for S.B. 51, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring that an applicant for a gambling operator's license be granted a provisional license within 5 days of application.

ASSUMPTIONS:

1. Assume that 375 individuals per year apply for an operator's license, and each one requests a provisional license.
2. Assume that additional operating costs associated with this bill (printing, postage, handling, D.P., office supplies, etc.) will approximate the new revenue each year.

FISCAL IMPACT:

Revenues: An increase in the gambling operating special revenue account of \$9,375 per year (375 X \$25).

Expenditures: An increase in the gambling operating special revenue account of \$9,375 per year (02).

Net Impact: Net impact per fiscal year is \$ 0.

Dave Lewis

DAVE LEWIS, BUDGET DIRECTOR

Office of Budget and Program Planning

1-9-93

DATE

Don Bianchi

DON BIANCHI, PRIMARY SPONSOR

1/11/93

DATE

Fiscal Note for SB0051, as introduced

SB 51

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

SENATE BILL NO. 51

INTRODUCED BY BIANCHI

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PROVIDING
THAT AN APPLICANT FOR A GAMBLING OPERATOR'S LICENSE MAY BE
GRANTED A PROVISIONAL LICENSE WITHIN 5 DAYS OF APPLICATION
TEMPORARY OPERATING AUTHORITY, PENDING THE DEPARTMENT OF
JUSTICE'S DECISION ON THE APPLICATION FOR A PERMANENT
LICENSE; PROVIDING FOR A COMPLETENESS REVIEW; AMENDING
SECTIONS 23-5-112 AND 23-5-177, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE."

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

~~NEW SECTION. Section 1. Provisional-----operator's--~~
~~license.--An applicant for an operator's license must be~~
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~~days from the date on which the department receives the~~
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~~that the applicant is qualified for an operator's license.~~
~~The fee for a provisional license is \$25, which the~~
~~department shall retain for purposes of processing the~~

~~license.~~

NEW SECTION. SECTION 1. PURPOSE. THE LEGISLATURE FINDS
THAT IT IS IN THE PUBLIC INTEREST TO FACILITATE THE ORDERLY
AND TIMELY TRANSFER OF OWNERSHIP INTERESTS IN LICENSED
GAMBLING ESTABLISHMENTS TO NEW QUALIFIED OWNERS. THE
UNWARRANTED CESSATION OF BUSINESS IN A GAMBLING
ESTABLISHMENT PENDING THE GRANT OF A PERMANENT LICENSE MAY
RESULT IN ECONOMIC HARDSHIP TO THE BUYER, SELLER, OR
EMPLOYEES OF THE ESTABLISHMENT AND THE LOSS OF GAMBLING TAX
REVENUE TO LOCAL GOVERNMENT ENTITIES.

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

1 with a card bearing a printed design of 5 columns of 5
 2 squares each, 25 squares in all. The letters B-I-N-G-O must
 3 appear above the design, with each letter above one of the
 4 columns. No more than 75 numbers may be used. One number
 5 must appear in each square, except for the center square,
 6 which may be considered a free play. Numbers are randomly
 7 drawn using authorized equipment until the game is won by
 8 the person or persons who first cover a previously
 9 designated arrangement of numbers on the bingo card.

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

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

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

17 (b) operated by a senior citizen center.

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

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

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

1 (10) "Distributor" means a person who:

2 (a) purchases or obtains from another person equipment
 3 of any kind for use in gambling activities; and

4 (b) sells, leases, or otherwise furnishes the equipment
 5 to another person for use in public.

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, or
 16 manufacturer-distributor's license issued to a person by the
 17 department.

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

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

23 (22) "Lottery" or "gift enterprise" means a scheme, by
 24 whatever name known, for the disposal or distribution of
 25 property by chance among persons who have paid or promised

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

6 (a) lotteries authorized under chapter 7; or

7 (b) cash or merchandise attendance prizes or premiums
8 that the county fair commissioners of agricultural fairs and
9 rodeo associations may give away at public drawings at fairs
10 and rodeos.

11 (23) "Manufacturer" means a person who assembles from
12 raw materials or subparts a completed piece of equipment or
13 pieces of equipment of any kind to be used as a gambling
14 device.

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

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

24 (26) "Permit" means approval from the department to make
25 available for public play a gambling device or gambling

1 enterprise approved by the department pursuant to parts 1
2 through 6 of this chapter.

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

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

11 (29) "Promotional game of chance" means a scheme, by
12 whatever name known, for the disposal or distribution of
13 property by chance among persons who have not paid or are
14 not expected to pay any valuable consideration or who have
15 not purchased or are not expected to purchase any goods or
16 services for a chance to obtain the property, a portion of
17 it, or a share in it.

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

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

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

25 (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) "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) "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) "Temporary operating authority" means the permission that may be granted to an applicant to operate a gambling establishment if the applicant has submitted a completed application for a permanent gambling license. The permission may be granted, denied, or revoked by the department without notice or opportunity for hearing, provided that the department gives notice and an opportunity for hearing prior to a final determination on the application. Temporary operating authority does not constitute a gambling license.

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

NEW SECTION. SECTION 3. TEMPORARY OPERATING AUTHORITY.

(1) THE DEPARTMENT MAY GRANT AN APPLICANT FOR A GAMING OPERATOR'S LICENSE TEMPORARY OPERATING AUTHORITY FOR AN INITIAL PERIOD NOT TO EXCEED 60 DAYS IF:

(A) THE APPLICANT HAS SUBMITTED A COMPLETE GAMBLING OPERATOR'S LICENSE APPLICATION AS REQUIRED BY THE DEPARTMENT;

(B) THE APPLICANT HAS RECEIVED TEMPORARY OPERATING AUTHORITY FROM THE DEPARTMENT OF REVENUE FOR THE APPLICANT'S

1 ALCOHOLIC BEVERAGE ESTABLISHMENT; AND

2 (C) THE APPLICATION, ACCOMPANYING PERSONAL HISTORIES,
3 AND INITIAL DEPARTMENT INVESTIGATIONS DO NOT REVEAL ANY
4 CONVICTIONS OR OUTSTANDING CHARGES FOR FELONIES OR CRIMES
5 INVOLVING THEFT OR FALSE SWEARING.

6 (2) THE DEPARTMENT MAY WITHOUT NOTICE REVOKE TEMPORARY
7 OPERATING AUTHORITY FOR ANY APPLICANT IF DURING ITS
8 INVESTIGATION, IT FINDS THAT THE APPLICANT MISREPRESENTED OR
9 OMITTED INFORMATION ON THE APPLICATION OR THAT ANY GROUNDS
10 EXIST THAT MIGHT RESULT IN THE ULTIMATE DENIAL OF THE
11 OPERATOR'S LICENSE.

12 (3) AN APPLICANT IS NOT ENTITLED TO NOTICE OR A
13 CONTESTED CASE HEARING WITH RESPECT TO A DECISION BY THE
14 DEPARTMENT TO DENY OR REVOKE TEMPORARY OPERATING AUTHORITY.

15 (4) A GRANT OF TEMPORARY OPERATING AUTHORITY
16 AUTOMATICALLY EXPIRES AFTER 60 DAYS. IF AT THAT TIME THE
17 DEPARTMENT HAS NOT APPROVED OR DENIED THE APPLICATION FOR A
18 GAMING OPERATOR'S LICENSE, THE DEPARTMENT MAY EXTEND THE
19 TEMPORARY OPERATING AUTHORITY FOR 30 DAYS AT A TIME UNTIL
20 THE APPLICATION IS ACCEPTED OR DENIED.

21 **SECTION 4. SECTION 23-5-177, MCA, IS AMENDED TO READ:**

22 "23-5-177. Operator of gambling establishment --
23 license -- fee. (1) It is a misdemeanor for a person who is
24 not licensed by the department as an operator to make
25 available to the public for play a gambling device or

1 gambling enterprise for which a permit must be obtained from
2 the department.

3 (2) To obtain an operator's license, a person shall
4 submit to the department:

5 (a) a completed operator's license application on a
6 form prescribed and furnished by the department;

7 (b) any other relevant information requested by the
8 department; and

9 (c) a license application processing fee, as required
10 in subsection (8)(9).

11 (3) The department shall review the application form
12 and other information for completeness and shall notify the
13 applicant in writing within 10 working days of receipt of
14 the application of any deficiencies in the application. An
15 application is considered complete if the applicant is not
16 notified of any deficiencies pursuant to this subsection.

17 (4) Before issuing an operator's license, the
18 department shall approve, in accordance with 23-5-117, the
19 premises in which the gambling activity is to be conducted.

20 (5) Except as provided in 23-5-117, regardless of
21 the number of on-premises alcoholic beverage licenses issued
22 for a premises, the department may issue only one operator's
23 license for the premises.

24 (6) An operator's license must include the following
25 information:

1 (a) a description of the premises upon which the
 2 gambling will take place;
 3 (b) the operator's name;
 4 (c) a description of each gambling device or card game
 5 table for which a permit has been issued to the operator by
 6 the department for play upon the premises, including the
 7 type of game and permit number for each game; and
 8 (d) any other relevant information determined necessary
 9 by the department.

10 ~~†6†~~(7) The operator's license must be issued annually
 11 along with all other permits for gambling devices or games
 12 issued to the operator.

13 ~~†7†~~(8) The operator's license must be updated each time
 14 a video gambling machine, bingo, keno, or card game table
 15 permit is newly issued or the machine or game is removed
 16 from the premises.

17 ~~†8†~~(9) The department shall charge an applicant who has
 18 submitted an operator's license application on or after July
 19 1, 1991, a one-time license application processing fee to
 20 cover the actual cost incurred by the department in
 21 determining whether the applicant qualifies for licensure
 22 under 23-5-176. After making its determination, the
 23 department shall refund any overpayment or charge and
 24 collect amounts sufficient to reimburse the department for
 25 any underpayment of actual costs.

1 ~~†9†~~(10) The operator's license must be prominently
 2 displayed upon the premises for which it is issued."

3 NEW SECTION. **Section 5.** Codification instruction.
 4 ~~†Section-1†~~ is [SECTIONS 1 AND 3] ARE intended to be
 5 codified as an integral part of Title 23, chapter 5, part 1,
 6 and the provisions of Title 23, chapter 5, apply to ~~†section~~
 7 ~~1†~~ [SECTIONS 1 AND 3].

8 NEW SECTION. **Section 6.** Effective date. [This act] is
 9 effective on passage and approval.

-End-

SENATE BILL NO. 51

INTRODUCED BY BIANCHI

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PROVIDING THAT AN APPLICANT FOR A GAMBLING OPERATOR'S LICENSE MAY BE GRANTED A PROVISIONAL LICENSE WITHIN 5 DAYS OF APPLICATION TEMPORARY OPERATING AUTHORITY, PENDING THE DEPARTMENT OF JUSTICE'S DECISION ON THE APPLICATION FOR A PERMANENT LICENSE; PROVIDING FOR A COMPLETENESS REVIEW; AMENDING SECTIONS 23-5-112 AND 23-5-177, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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SECTION 2. SECTION 23-5-112, MCA, IS AMENDED TO READ:

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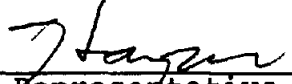
(2) "Application" means a written request for a license

THERE ARE NO CHANGES IN THIS BILL
AND WILL NOT BE REPRINTED. PLEASE
REFER TO YELLOW COPY FOR COMPLETE TEXT.

HOUSE COMMITTEE OF THE WHOLE AMENDMENT
Senate Bill 51
Representative Harper

March 12, 1993 2:33 pm
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 51 (third reading copy
-- blue).

Signed: 
Representative Harper

And, that such amendments to Senate Bill 51 read as follows:

1. Page 11, line 1.
Following: "ESTABLISHMENT;"
Strike: "AND"

2. Page 11, line 5.
Following: "SWEARING"
Insert: "; and

(d) the department determines that the applicant has fully
disclosed all financing sources and that there are no unsuitable
sources of financing involved in the proposed operation"

-END-

ADOPT

REJECT

HOUSE
SB 51

561432CW.Hpf

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 22 prizes paid out.

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 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, or
16 manufacturer-distributor's license issued to a person by the
17 department.

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

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

23 (22) "Lottery" or "gift enterprise" means a scheme, by
24 whatever name known, for the disposal or distribution of
25 property by chance among persons who have paid or promised

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

6 (a) lotteries authorized under chapter 7; or

7 (b) cash or merchandise attendance prizes or premiums
 8 that the county fair commissioners of agricultural fairs and
 9 rodeo associations may give away at public drawings at fairs
 10 and rodeos.

11 (23) "Manufacturer" means a person who assembles from
 12 raw materials or subparts a completed piece of equipment or
 13 pieces of equipment of any kind to be used as a gambling
 14 device.

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

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

24 (26) "Permit" means approval from the department to make
 25 available for public play a gambling device or gambling

1 enterprise approved by the department pursuant to parts 1
 2 through 6 of this chapter.

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

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

11 (29) "Promotional game of chance" means a scheme, by
 12 whatever name known, for the disposal or distribution of
 13 property by chance among persons who have not paid or are
 14 not expected to pay any valuable consideration or who have
 15 not purchased or are not expected to purchase any goods or
 16 services for a chance to obtain the property, a portion of
 17 it, or a share in it.

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

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

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

25 (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) "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) "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) "Temporary operating authority" means the permission that may be granted to an applicant to operate a gambling establishment if the applicant has submitted a completed application for a permanent gambling license. The permission may be granted, denied, or revoked by the department without notice or opportunity for hearing, provided that the department gives notice and an opportunity for hearing prior to a final determination on the application. Temporary operating authority does not constitute a gambling license.

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

NEW SECTION. SECTION 3. TEMPORARY OPERATING AUTHORITY.

(1) THE DEPARTMENT MAY GRANT AN APPLICANT FOR A GAMING OPERATOR'S LICENSE TEMPORARY OPERATING AUTHORITY FOR AN INITIAL PERIOD NOT TO EXCEED 60 DAYS IF:

(A) THE APPLICANT HAS SUBMITTED A COMPLETE GAMBLING OPERATOR'S LICENSE APPLICATION AS REQUIRED BY THE DEPARTMENT;

(B) THE APPLICANT HAS RECEIVED TEMPORARY OPERATING AUTHORITY FROM THE DEPARTMENT OF REVENUE FOR THE APPLICANT'S

ALCOHOLIC BEVERAGE ESTABLISHMENT; AND

(C) THE APPLICATION, ACCOMPANYING PERSONAL HISTORIES, AND INITIAL DEPARTMENT INVESTIGATIONS DO NOT REVEAL ANY CONVICTIONS OR OUTSTANDING CHARGES FOR FELONIES OR CRIMES INVOLVING THEFT OR FALSE SWEARING; AND

(D) THE DEPARTMENT DETERMINES THAT THE APPLICANT HAS FULLY DISCLOSED ALL FINANCING SOURCES AND THAT THERE ARE NO UNSUITABLE SOURCES OF FINANCING INVOLVED IN THE PROPOSED OPERATION.

(2) THE DEPARTMENT MAY WITHOUT NOTICE REVOKE TEMPORARY OPERATING AUTHORITY FOR ANY APPLICANT IF DURING ITS INVESTIGATION, IT FINDS THAT THE APPLICANT MISREPRESENTED OR OMITTED INFORMATION ON THE APPLICATION OR THAT ANY GROUNDS EXIST THAT MIGHT RESULT IN THE ULTIMATE DENIAL OF THE OPERATOR'S LICENSE.

(3) AN APPLICANT IS NOT ENTITLED TO NOTICE OR A CONTESTED CASE HEARING WITH RESPECT TO A DECISION BY THE DEPARTMENT TO DENY OR REVOKE TEMPORARY OPERATING AUTHORITY.

(4) A GRANT OF TEMPORARY OPERATING AUTHORITY AUTOMATICALLY EXPIRES AFTER 60 DAYS. IF AT THAT TIME THE DEPARTMENT HAS NOT APPROVED OR DENIED THE APPLICATION FOR A GAMING OPERATOR'S LICENSE, THE DEPARTMENT MAY EXTEND THE TEMPORARY OPERATING AUTHORITY FOR 30 DAYS AT A TIME UNTIL THE APPLICATION IS ACCEPTED OR DENIED.

SECTION 4. SECTION 23-5-177, MCA, IS AMENDED TO READ:

"23-5-177. Operator of gambling establishment -- license -- fee. (1) It is a misdemeanor for a person who is not licensed by the department as an operator to make available to the public for play a gambling device or gambling enterprise for which a permit must be obtained from the department.

(2) To obtain an operator's license, a person shall submit to the department:

(a) a completed operator's license application on a form prescribed and furnished by the department;

(b) any other relevant information requested by the department; and

(c) a license application processing fee, as required in subsection ~~(8)~~(9).

(3) The department shall review the application form and other information for completeness and shall notify the applicant in writing within 10 working days of receipt of the application of any deficiencies in the application. An application is considered complete if the applicant is not notified of any deficiencies pursuant to this subsection.

~~(4)~~(4) Before issuing an operator's license, the department shall approve, in accordance with 23-5-117, the premises in which the gambling activity is to be conducted.

~~(4)~~(5) Except as provided in 23-5-117, regardless of the number of on-premises alcoholic beverage licenses issued

1 for a premises, the department may issue only one operator's
2 license for the premises.

3 ~~{5}~~{6} An operator's license must include the following
4 information:

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

7 (b) the operator's name;

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

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

14 ~~{6}~~{7} The operator's license must be issued annually
15 along with all other permits for gambling devices or games
16 issued to the operator.

17 ~~{7}~~{8} The operator's license must be updated each time
18 a video gambling machine, bingo, keno, or card game table
19 permit is newly issued or the machine or game is removed
20 from the premises.

21 ~~{8}~~{9} The department shall charge an applicant who has
22 submitted an operator's license application on or after July
23 1, 1991, a one-time license application processing fee to
24 cover the actual cost incurred by the department in
25 determining whether the applicant qualifies for licensure

1 under 23-5-176. After making its determination, the
2 department shall refund any overpayment or charge and
3 collect amounts sufficient to reimburse the department for
4 any underpayment of actual costs.

5 ~~{9}~~{10} The operator's license must be prominently
6 displayed upon the premises for which it is issued."

7 NEW SECTION. Section 5. Codification instruction.
8 ~~{Section--}~~is [SECTIONS 1 AND 3] ARE intended to be
9 codified as an integral part of Title 23, chapter 5, part 1,
10 and the provisions of Title 23, chapter 5, apply to ~~{section~~
11 ~~1}~~ [SECTIONS 1 AND 3].

12 NEW SECTION. Section 6. Effective date. [This act] is
13 effective on passage and approval.

-End-

OFFICE OF THE GOVERNOR

STATE OF MONTANA



MARC RACICOT
GOVERNOR

STATE CAPITOL
HELENA, MONTANA 59620-0801

April 10, 1993

The Honorable Fred Van Valkenburg
President of the Senate
State Capitol
Helena MT 59620

The Honorable John Mercer
Speaker of the House
State Capitol
Helena MT 59620

Dear President Van Valkenburg and Speaker Mercer:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto Senate Bill No. 51, "AN ACT PROVIDING THAT AN APPLICANT FOR A GAMBLING OPERATOR'S LICENSE MAY BE GRANTED TEMPORARY OPERATING AUTHORITY, PENDING THE DEPARTMENT OF JUSTICE'S DECISION ON THE APPLICATION FOR A PERMANENT LICENSE; PROVIDING FOR A COMPLETENESS REVIEW; AMENDING SECTIONS 23-5-112 AND 23-5-177, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE," for the following reasons.

This bill permits the Montana Department of Justice ("Department") to grant temporary operating authority to an applicant for a gaming operator's license. The legislation provides that temporary operating authority may be granted by the Department if a completed application for a gaming license is submitted, temporary operating authority has been granted by the Department of Revenue for the sale of alcoholic beverages, an initial investigation has not revealed any convictions or pending charges for felonies or crimes involving theft or false swearing, and the Department has determined that all financing arrangements in the proposed operation are suitable and have been disclosed. That is, for the most part, what is presently required by law to secure a permanent gambling license. As a result, although this bill creates the impression that temporary operating authority can be granted, in fact the same requirements must be met as would be required for a permanent license. In that sense, the bill does little more than generate an expectation that temporary operating authority can be granted, when in reality the Department will have to employ the same procedure that it currently uses to assure proper regulation of the industry.

The danger in all of this is that the establishment of new procedures that will not permit a change in results will precipitate more controversy than it solves, and that is not good public policy.

While at first glance the provisions of the bill may seem reasonable, I do not believe it is wise to encourage the Department to take short-cuts when investigating the background of individuals who wish to operate gambling establishments.

Gambling must remain a carefully regulated industry in Montana. It is vitally important that thorough investigations be conducted into the qualifications of an applicant as well as the suitability of the applicant's sources of financing. To give the Department the discretion to issue licenses without a complete investigation is to suggest that the Department must issue these "short-cut" licenses under certain circumstances. No doubt the failure to issue such a license will result in litigation against the State in many instances.

Moreover, it is unwise and unfair to have applicants invest time and financial resources in a gambling operation for which they receive a temporary license, only to have it later revoked by the Department after a thorough investigation is conducted. Similarly, it becomes an onerous burden on the Department to require revocation once a gambling establishment is in place and operating.

Finally, I am not persuaded that the Department should be expected to undertake a streamlined licensing procedure, at the same time that some of the proponents of this bill have been critical of the Department for not completing its administrative responsibilities as quickly as some would desire. If the Legislature has concluded that the Department is not processing applications as quickly as it would like, then the staffing of the agency should be addressed instead of moving away from the thorough examination of license applications before a license is granted.

The gambling industry in Montana, composed mostly of small businessmen and businesswomen, operates with a high degree of integrity and honesty. Neither that industry nor the citizens of Montana should be exposed to any predictable risk that can be avoided. For these reasons, I veto Senate Bill 51.

Sincerely,



MARC RACICOT
Governor