

Wm.E. Boharski House BILL NO. 275

2 INTRODUCED BY Ernie Boharski Libby Barnett Jore

3 Arnett Beck Boharski Boharski Boharski Boharski Boharski Boharski

4 A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE PERIOD OF TIME IN WHICH A PREMISES
5 LICENSED TO HAVE VIDEO GAMBLING MACHINES MUST COMPLY WITH DISTANCE RESTRICTIONS;
6 AMENDING SECTION 23-5-629, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 Section 1. Section 23-5-629, MCA, is amended to read:

11 "23-5-629. Permit for premises within 150 feet of another premises. (1) (a) A licensee may not
12 be granted a permit for video gambling machines allowed on a premises under 23-5-611 if, at the time of
13 application for the permit, the licensee's premises are within 150 feet of, or have an external structural
14 connection not amounting to a common internal wall, as that term is used in 23-5-117, to, a premises that
15 already has a permit for video gambling machines allowed on a premises under 23-5-611 and if the two
16 premises have one or more common owners. A measurement of the distance between two premises must
17 be taken between the nearest exterior wall of each premises.

18 (b) A premises for which an on-premises alcoholic beverages license was granted, was applied for,
19 or the transfer of which was validly contracted for prior to February 1, 1995, is not subject to subsection
20 (1)(a) during the ~~40-year~~ 5-year period following October 1, 1995. A premises licensed before January 1,
21 1985, is not subject to subsection (1)(a) for as long as ownership remains within the immediate family that
22 owned the premises on January 1, 1985, if ownership of the premises on October 1, 1995, was within the
23 immediate family that owned the premises on January 1, 1985.

24 (2) For purposes of this section, the following definitions apply:

25 (a) "Affiliate" means a person or entity that controls, is controlled by, or is under common control
26 with another person or entity. The term includes but is not limited to a premises that has:

27 (i) shareholders, partners, or other individual owners, by trust or otherwise, who are also
28 shareholders, partners, or individual owners, by trust or otherwise, of the other premises;

29 (ii) shareholders, partners, or other individual owners, by trust or otherwise, who are income
30 taxpayers related to the shareholders, partners, or other individual owners, by trust or otherwise, of the

1 other premises;

2 (iii) an agreement with the other premises or the other premises' shareholders, partners, or other
3 individual owners, by trust or otherwise, for the ownership and operation of gaming equipment if the
4 agreement has other financial components, such as a landlord and tenant relationship or noninstitutional
5 financing; or

6 (iv) a premises rental agreement with the other premises or its shareholders, partners, or other
7 individual owners, by trust or otherwise, at a rental rate other than the market rental rate, as determined
8 by a Montana independent appraisers association appraisal done at the time that the rental rate is set or
9 changed.

10 (b) "Common owner" means an affiliate, immediate family member, manager, parent or subsidiary
11 business entity, investor, person or entity with a commonality of business interests, or other person or
12 entity able to influence the operator or manager of the premises or to prevent the operator or manager from
13 fully pursuing the premises' separate interests.

14 (c) "Commonality of business interests" means:

15 (i) a contract, deed, contract for deed, concession agreement, or lease, rental, or other agreement
16 involving real property, with the same person or entity, except:

17 (A) a commercial mall with at least 50,000 square feet and at least eight separate businesses; or

18 (B) an agreement by a licensee to lease premises from a person or entity that also leases other
19 premises in the same building or structure to one or more licensees if there is no other common ownership
20 between any of the licensees; or

21 (ii) that the same person or entity, except a financial institution, provides the financing for:

22 (A) the purchase of the liquor license;

23 (B) the purchase of the premises; or

24 (C) operating expenses of more than \$25,000, except for expenses allowed under 23-5-130.

25 (d) "Control" means the power to cause or direct management and policies through ownership,
26 contract, or otherwise.

27 (e) "Immediate family" means a parent, children, siblings, grandchildren, grandparents, nieces, and
28 nephews.

29 (f) "Investor" means a person who:

30 (i) advances or pledges to advance funds with the expectation of a specified or unspecified return;

- 1 (ii) guarantees a loan, except a loan guaranteed by a route operator who would not otherwise be
2 considered a common owner; or
3 (iii) has an option to participate in the premises."
4

5 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

6 -END-