

1 *Prose* *Senate* BILL NO. *294*
 2 INTRODUCED BY *Grossfeld* *Enver* *McLain* *BH Baumbach*
 3 *Cany* *Hayes* *Raney* *Hurdle* *Haynes* *Thom*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR LOCAL INPUT IN GAMBLING DECISIONS BY
 5 PROVIDING REGULATIONS FOR CASINOS; DEFINING "CASINO"; CLARIFYING THE AUTHORITY OF LOCAL
 6 GOVERNMENTS TO ADOPT ZONING REGULATIONS GOVERNING CASINOS; REQUIRING THE
 7 DEPARTMENT OF JUSTICE TO CONSIDER CONFORMITY TO LOCAL ZONING ORDINANCES IN ISSUING
 8 LICENSES AND PERMITS FOR CASINOS; AMENDING SECTIONS 23-5-112, 23-5-115, 23-5-611, 76-2-203,
 9 AND 76-2-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
 13 **Section 1.** Section 23-5-112, MCA, is amended to read:

14 **"23-5-112. Definitions.** Unless the context requires otherwise, the following definitions apply to
 15 parts 1 through 8 of this chapter:

16 (1) "Applicant" means a person who has applied for a license or permit issued by the department
 17 pursuant to parts 1 through 8 of this chapter.

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

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

22 (4) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5
 23 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with
 24 each letter above one of the columns. More than 75 numbers may not be used. One number must appear
 25 in each square, except for the center square, which may be considered a free play. Numbers are randomly
 26 drawn using authorized equipment until the game is won by the person or persons who first cover one or
 27 more previously designated arrangements of numbers on the bingo card.

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

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

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

3 (b) operated by a senior citizen center.

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

7 (8) "Casino" means a premises:

8 (a) licensed to sell alcoholic beverages that has more than five video gambling machines;

9 (b) that uses the word "casino" in the name of the business; or

10 (c) that receives over 50% of its gross income from gambling activities.

11 ~~(9)~~(9) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

12 ~~(9)~~(10) "Department" means the department of justice.

13 ~~(10)~~(11) "Distributor" means a person who:

14 (a) purchases or obtains from a licensed manufacturer, distributor, or route operator equipment of
15 any kind for use in gambling activities; and

16 (b) sells the equipment to a licensed distributor, route operator, or operator.

17 ~~(11)~~(12) "Gambling" or "gambling activity" means risking money, credit, deposit, check, property,
18 or any other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the
19 operation of a gambling device or gambling enterprise. The term does not mean conducting or participating
20 in a promotional game of chance and does not include amusement games regulated by Title 23, chapter
21 6, part 1.

22 ~~(12)~~(13) "Gambling device" means a mechanical, electromechanical, or electronic device, machine,
23 slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any
24 gambling activity.

25 ~~(13)~~(14) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity,
26 scheme, or agreement to provide gambling or a gambling device to the public.

27 ~~(14)~~(15) "Gift enterprise" means a gambling activity in which persons have qualified to obtain
28 property to be awarded by purchasing or agreeing to purchase goods or services. The term does not mean:

29 (a) a cash or merchandise attendance prize or premium that county fair commissioners of
30 agricultural fairs and rodeo associations may give away at public drawings at fairs and rodeos;

1 (b) a promotional game of chance; or

2 (c) an amusement game regulated under chapter 6 of this title.

3 ~~(15)~~(16) "Gross proceeds" means gross revenue received less prizes paid out.

4 ~~(16)~~(17) "Illegal gambling device" means a gambling device not specifically authorized by statute
5 or by the rules of the department. The term includes:

6 (a) a ticket or card, by whatever name known, containing concealed numbers or symbols that may
7 match numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push
8 card, tip board, pickle ticket, break-open, or jar game, except for one used under chapter 7 or under part
9 5 of this chapter or in a promotional game of chance approved by the department; and

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

13 ~~(17)~~(18) "Illegal gambling enterprise" means a gambling enterprise that violates or is not specifically
14 authorized by a statute or a rule of the department. The term includes:

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

19 (b) a dice game, by whatever name known, in which a participant wagers on the outcome of the
20 roll of one or more dice, including craps, hazard, or chuck-a-luck, but not including activities authorized by
21 23-5-160; and

22 (c) sports betting, by whatever name known, in which a person places a wager on the outcome
23 of an athletic event, including bookmaking, parlay bets, or sultan sports cards, but not including those
24 activities authorized in chapter 4 of this title and parts 2, 5, and 8 of this chapter.

25 ~~(18)~~(19) "Keno" means a game of chance in which prizes are awarded using a card with 8
26 horizontal rows and 10 columns on which a player may pick up to 10 numbers. A keno caller, using
27 authorized equipment, shall select at random at least 20 numbers out of numbers between 1 and 80,
28 inclusive.

29 ~~(19)~~(20) "Keno caller" means a person 18 years of age or older who, using authorized equipment,
30 announces the order of the numbers drawn in live keno.

1 ~~(20)~~(21) "License" means a license for an operator, dealer, card room contractor, manufacturer of
2 devices not legal in Montana, sports tab card manufacturer, manufacturer of electronic live bingo or keno
3 equipment, other manufacturer, distributor, or route operator that is issued to a person by the department.

4 ~~(21)~~(22) "Licensee" means a person who has received a license from the department.

5 ~~(22)~~(23) "Live card game" or "card game" means a card game that is played in public between
6 persons on the premises of a licensed gambling operator or in a senior citizen center.

7 ~~(23)~~(24) "Lottery" means a scheme, by whatever name known, for the disposal or distribution of
8 property among persons who have paid or promised to pay valuable consideration for the chance of
9 obtaining the property or a portion of it or for a share or interest in the property upon an agreement,
10 understanding, or expectation that it is to be distributed or disposed of by lot or chance. The term does not
11 mean lotteries authorized under chapter 7 of this title.

12 ~~(24)~~(25) "Manufacturer" means a person who assembles from raw materials or subparts a
13 completed piece of equipment or pieces of equipment of any kind to be used as a gambling device and who
14 sells the equipment directly to a licensed distributor, route operator, or operator.

15 ~~(25)~~(26) "Nonprofit organization" means a nonprofit corporation or nonprofit charitable, religious,
16 scholastic, educational, veterans', fraternal, beneficial, civic, senior citizens', or service organization
17 established for purposes other than to conduct a gambling activity.

18 ~~(26)~~(27) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise,
19 and operates or controls for use in public, a gambling device or gambling enterprise authorized under parts
20 1 through 8 of this chapter.

21 ~~(27)~~(28) "Permit" means approval from the department to make available for public play a gambling
22 device or gambling enterprise approved by the department pursuant to parts 1 through 8 of this chapter.

23 ~~(28)~~(29) "Person" or "persons" means both natural and artificial persons and all partnerships,
24 corporations, associations, clubs, fraternal orders, and societies, including religious and charitable
25 organizations.

26 ~~(29)~~(30) "Premises" means the physical building or property within or upon which a licensed
27 gambling activity occurs, as stated on an operator's license application and approved by the department.

28 ~~(30)~~(31) "Promotional game of chance" means a scheme, by whatever name known, for the
29 disposal or distribution of property among persons who have not paid or are not expected to pay any
30 valuable consideration or who have not purchased or are not expected to purchase any goods or services

1 for a chance to obtain the property, a portion of it, or a share in it. The property is disposed of or
2 distributed by simulating a gambling enterprise authorized by parts 1 through 8 of this chapter or by
3 operating a device or enterprise approved by the department that was manufactured or intended for use
4 for purposes other than gambling.

5 ~~(31)~~(32) "Public gambling" means gambling conducted in:

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

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

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

13 ~~(32)~~(33) "Raffle" means a form of lottery in which each participant pays valuable consideration for
14 a ticket to become eligible to win a prize. Winners must be determined by a random selection process
15 approved by department rule.

16 ~~(33)~~(34) "Route operator" means a person who:

17 (a) purchases from a licensed manufacturer, route operator, or distributor equipment of any kind
18 for use in a gambling activity;

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

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

22 ~~(34)~~(35) "Senior citizen center" means a facility operated by a nonprofit or governmental
23 organization that provides services to senior citizens in the form of daytime or evening educational or
24 recreational activities and does not provide living accommodations to senior citizens. Services qualifying
25 under this definition must be recognized in the state plan on aging adopted by the department of public
26 health and human services.

27 ~~(35)~~(36) "Slot machine" means a mechanical, electrical, electronic, or other gambling device,
28 contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or
29 upon payment of any valuable consideration, is available to play or operate, the play or operation of which,
30 whether by reason of the skill of the operator or application of the element of chance, or both, may deliver

1 or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise,
 2 tokens, or anything of value, whether the payoff is made automatically from the machine or in any other
 3 manner. This definition does not apply to video gambling machines authorized under part 6 of this chapter.
 4 ~~(36)~~(37) "Video gambling machine" is a gambling device specifically authorized by part 6 of this
 5 chapter and the rules of the department."
 6

7 **Section 2.** Section 23-5-115, MCA, is amended to read:

8 **"23-5-115. Powers and duties of department -- licensing.** (1) The department shall administer the
 9 provisions of parts 1 through 8 of this chapter.

10 (2) The department shall adopt rules to administer and implement parts 1 through 8 of this chapter.

11 (3) The department shall provide licensing procedures, prescribe necessary application forms,
 12 and grant or deny license applications. In granting or denying a license, the department shall consider
 13 whether the location of a proposed casino conforms to local zoning requirements. The department shall
 14 consult with the affected local government in making this determination.

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

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

20 (6) The department may not make public or otherwise disclose information obtained in the
 21 application or tax reporting processes, except for general statistical reporting or studies or as provided in
 22 23-5-116.

23 (7) The department shall assess, collect, and disburse any fees, taxes, or charges authorized under
 24 parts 1 through 8 of this chapter."
 25

26 **Section 3.** Section 23-5-611, MCA, is amended to read:

27 **"23-5-611. Machine permit qualifications -- limitations.** (1) (a) A person who has been granted an
 28 operator's license under 23-5-177 and a license to sell alcoholic beverages for consumption on the premises
 29 may be granted a permit for the placement of video gambling machines in ~~his~~ the premises.

30 (b) If video keno or bingo gambling machines were legally operated on a premises on January 15,

1 1989, and the premises were not on that date licensed to sell alcoholic beverages for consumption on the
2 premises or operated for the principal purpose of gaming and there is an operator's license for the premises
3 under 23-5-177, a permit for the same number of video keno or bingo gambling machines as were operated
4 on the premises on that date may be granted to the person who held the permit for ~~such~~ the machines on
5 those premises on that date.

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

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

11 (3) A licensee may not have on the premises or make available for play on the premises more than
12 20 machines of any combination. A premises that is a casino is subject to applicable local zoning
13 regulations."

14
15 **Section 4.** Section 76-2-203, MCA, is amended to read:

16 **"76-2-203. Criteria and guidelines for zoning regulations.** (1) The zoning regulations ~~shall~~ must
17 be made in accordance with a comprehensive development plan and ~~shall~~ must be designed to:

18 (a) lessen congestion in the streets;

19 (b) ~~to~~ secure safety from fire, panic, and other dangers;

20 (c) ~~to~~ promote health and general welfare;

21 (d) ~~to~~ provide adequate light and air;

22 (e) ~~to~~ prevent the overcrowding of land;

23 (f) ~~to~~ avoid undue concentration of population;

24 (g) ~~to~~ facilitate the adequate provision of transportation, water, sewerage, schools, parks, and
25 other public requirements.

26 (2) ~~Such zoning~~ Zoning regulations ~~shall~~ must be made with reasonable consideration, among other
27 things, to the character of the district and its peculiar suitability for particular uses and with a view to
28 conserving the value of buildings and encouraging the most appropriate use of land throughout ~~such~~ the
29 jurisdictional area. Zoning regulations may provide suitable locations for casinos, as defined in 23-5-112.
30 Zoning regulations for casinos must be based on impacts to neighboring uses and must minimize adverse

1 effects on the community in the best interests of the public health, safety, and welfare. The zoning
2 regulations ~~shall~~ must, as nearly as possible, be made compatible with the zoning ordinances of the
3 municipality within the jurisdictional area."

4

5 **Section 5.** Section 76-2-301, MCA, is amended to read:

6 "**76-2-301. Municipal zoning authorized.** (1) For the purpose of promoting health, safety, morals,
7 or the general welfare of the community, the city or town council or other legislative body of cities and
8 incorporated towns ~~is hereby empowered to~~ may regulate and restrict;

9 (a) the height, number of stories, and size of buildings and other structures;

10 (b) the percentage of lot that may be occupied;

11 (c) the size of yards, courts, and other open spaces;

12 (d) the density of population; and

13 (e) the location and use of buildings, structures, and land for trade, industry, residence, or other
14 purposes.

15 (2) Zoning regulations may provide suitable locations for casinos, as defined in 23-5-112. Zoning
16 regulations for casinos must be based on impacts to neighboring uses and must minimize adverse effects
17 on the community in the best interests of the public health, safety, and welfare."

18

19 **NEW SECTION. Section 6. Saving clause.** [This act] does not affect rights and duties that
20 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
21 act].

22

23 **NEW SECTION. Section 7. Effective date.** [This act] is effective on passage and approval.

24

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