

Senate BILL NO. 368

1
2 INTRODUCED BY *Lynch*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING BUSINESS PRACTICES RELATING TO THE SALE,
5 IMPORTATION, AND REPLACEMENT OF VIDEO GAMBLING MACHINES; AMENDING SECTIONS 23-5-612,
6 23-5-614, AND 23-5-631, MCA; AND PROVIDING EFFECTIVE DATES."

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

9
10 **Section 1.** Section 23-5-612, MCA, is amended to read:

11 **"23-5-612. Machine permits -- fee.** (1) The department, upon payment of the fee provided in
12 subsection (2) and in conformance with rules adopted under this part, shall issue to the operator an annual
13 permit for an approved video gambling machine.

14 (2) (a) The department shall charge an annual permit fee of \$200 for each video gambling machine
15 permit. The fee must be prorated on a quarterly basis but may not be prorated to allow a permit to expire
16 before June 30. The department may not grant a refund if the video gambling machine ceases operation
17 before the permit expires.

18 (b) If the person holding the gambling operator's license for the premises in which the machine is
19 located changes during the first quarter of the permit year and the new operator has received an operator's
20 license and if a machine transfer processing fee of \$25 ~~per~~ for each machine is paid to the department, the
21 permit remains valid for the remainder of the permit year.

22 (c) If a video gambling machine for which a permit has been obtained is replaced by another
23 machine, a new permit is not needed for the replacement machine and the permit for the replaced machine
24 transfers to the replacement machine for the remainder of the term of the permit. The department may
25 charge the permittee a fee equal to the cost of implementing the transfer of the permit.

26 (3) The department shall retain 50% of the total permit fee collected under subsection (2)(a) and
27 100% of the machine transfer processing fee collected under ~~subsection~~ subsections (2)(b) and (2)(c) for
28 purposes of administering this part. The balance of the fee collected under subsection (2)(a) must be
29 returned on a quarterly basis to the local government jurisdiction in which the gambling machine is located.
30 The local government portion of the fee is statutorily appropriated to the department, as provided in

1 17-7-502, for deposit in the local government treasury."

2

3 **Section 2.** Section 23-5-614, MCA, is amended to read:

4 **"23-5-614. Sale of video gambling machines ~~by operator or lienholder~~.** (1) A licensed operator who
5 is not licensed as a manufacturer, distributor, or route operator may sell up to 20 video gambling machines
6 in a calendar year if the operator:

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

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

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

13 (3) A licensed manufacturer or distributor may sell video gambling machines and associated
14 equipment approved by the department in any jurisdiction outside of this state in which it is legal to do so
15 under the laws of that jurisdiction. Prior to the date of the sale, the seller shall notify the department of
16 the sale and provide the department with the approval of the jurisdiction in which the machines or
17 equipment will be received."

18

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

20 **"23-5-631. Examination and approval of new video gambling machines and associated equipment**
21 **-- fee.** (1) The department shall examine and may approve a new video gambling machine or associated
22 equipment or a modification to an approved machine or associated equipment that is manufactured, sold,
23 or distributed for use in the state before the video gambling machine or associated equipment is sold,
24 played, or used. A licensed manufacturer or distributor may bring a video gambling machine or associated
25 equipment into the state for research and development on behalf of a licensed manufacturer prior to
26 submission of the machine or equipment to the department for approval.

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

30 (3) All video gambling machines or associated equipment approved by the department of commerce

1 prior to October 1, 1989, must be considered approved under this part.

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

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

11 (6) The department may inspect and test and approve, disapprove, or place a condition upon a
12 video gambling machine or associated equipment or a modification to an approved machine or associated
13 equipment prior to its distribution and placement for play by the public. A manufacturer, distributor, or route
14 operator may not supply a video gambling machine or associated equipment to a manufacturer, distributor,
15 route operator, or operator unless the machine or equipment has been approved by the department."
16

17 **NEW SECTION. Section 4. Effective dates.** (1) [Sections 2 and 3 and this section] are effective
18 on passage and approval.

19 (2) [Section 1] is effective July 1, 1997.

20 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0368, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act regulating business practices relating to the sale, importation, and replacement of video gambling machines.

ASSUMPTIONS:

1. Passage of SB 368 would not affect the number of gambling machines in play at any one time.
2. Passage of SB 368 would not affect the reported gross income from video gambling machines in play during the biennium.
3. As introduced SB 368 is not expected to increase the cost of administering gambling laws significantly. The only task not already performed by the Gambling Control Division and required by this legislation is to track shipments out of state. The division estimates this task would not increase operating expenses significantly.
4. Revenue would decrease significantly because the division currently charges a permit fee by machine and by location. Permit fees are charged for machine replacement. SB 368 would allow only processing fees to be charged for replacement machines.

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
<u>Revenue:</u>	<u>Difference</u>	<u>Difference</u>
State Special Revenue (02)	(103,900)	(103,900)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

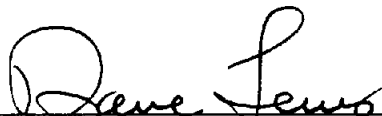
Video gambling machine permit fees are divided equally between the state special revenue fund-gambling and local governments. Therefore, local government revenue would also decrease by \$103,900 per year.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Passage of SB 368 as introduced would result in a negative special revenue fund balance at the end of fiscal 1998. The division would be forced to seek an overall fee increase to compensate for the lost revenue.

TECHNICAL NOTES:

It is understood that the bill sponsor has agreed to amendments that would eliminate the negative impact on state special and local government revenue.

 2-19-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 J. D. LYNCH, PRIMARY SPONSOR DATE

Fiscal Note for SB0368, as introduced

SB 368

1 SENATE BILL NO. 368

2 INTRODUCED BY LYNCH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING BUSINESS PRACTICES RELATING TO THE SALE,
5 AND IMPORTATION, AND REPLACEMENT OF VIDEO GAMBLING MACHINES; AMENDING SECTIONS
6 23-5-612, 23-5-614, AND 23-5-631, MCA; AND PROVIDING AN EFFECTIVE DATES DATE."

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11 ~~"23-5-612. Machine permits fee. (1) The department, upon payment of the fee provided in~~
12 ~~subsection (2) and in conformance with rules adopted under this part, shall issue to the operator an annual~~
13 ~~permit for an approved video gambling machine.~~

14 ~~(2) (a) The department shall charge an annual permit fee of \$200 for each video gambling machine~~
15 ~~permit. The fee must be prorated on a quarterly basis but may not be prorated to allow a permit to expire~~
16 ~~before June 30. The department may not grant a refund if the video gambling machine ceases operation~~
17 ~~before the permit expires.~~

18 ~~(b) If the person holding the gambling operator's license for the premises in which the machine is~~
19 ~~located changes during the first quarter of the permit year and the new operator has received an operator's~~
20 ~~license and if a machine transfer processing fee of \$25 per for each machine is paid to the department, the~~
21 ~~permit remains valid for the remainder of the permit year.~~

22 ~~(c) If a video gambling machine for which a permit has been obtained is replaced by another~~
23 ~~machine, a new permit is not needed for the replacement machine and the permit for the replaced machine~~
24 ~~transfers to the replacement machine for the remainder of the term of the permit. The department may~~
25 ~~charge the permittee a fee equal to the cost of implementing the transfer of the permit.~~

26 ~~(3) The department shall retain 50% of the total permit fee collected under subsection (2)(a) and~~
27 ~~100% of the machine transfer processing fee collected under subsection subsections (2)(b) and (2)(c) for~~
28 ~~purposes of administering this part. The balance of the fee collected under subsection (2)(a) must be~~
29 ~~returned on a quarterly basis to the local government jurisdiction in which the gambling machine is located.~~
30 ~~The local government portion of the fee is statutorily appropriated to the department, as provided in~~

1 ~~17-7-502, for deposit in the local government treasury."~~

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3 **Section 1.** Section 23-5-614, MCA, is amended to read:

4 **"23-5-614. Sale of video gambling machines ~~by operator or lienholder.~~** (1) A licensed operator who
5 is not licensed as a manufacturer, distributor, or route operator may sell up to 20 video gambling machines
6 in a calendar year if the operator:

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

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

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

13 (3) A licensed manufacturer or distributor may sell video gambling machines and associated
14 equipment approved by the department ~~in~~ FOR DELIVERY TO any jurisdiction outside of this state ~~in which~~
15 it is legal to do so under the laws of that jurisdiction IF THE SALE AND TRANSPORTATION OF THE
16 MACHINES OR EQUIPMENT COMPLIES WITH ALL APPLICABLE LOCAL, TRIBAL, STATE, AND FEDERAL
17 LAWS AND REGULATIONS. Prior to the date of the sale, the seller shall notify the department of the
18 TERMS OF THE sale, THE IDENTITIES OF THE SELLER, PURCHASER, AND PERSON TO WHOM THE
19 SHIPMENT WILL BE MADE, THE TYPE AND NUMBER OF MACHINES OR EQUIPMENT TO BE SOLD, AND
20 THE METHOD OF SHIPMENT and provide the department with the approval of the jurisdiction in which the
21 machines or equipment will be received. A PERSON CONVICTED OF PURPOSELY OR KNOWINGLY
22 VIOLATING THIS SUBSECTION SHALL BE PUNISHED AS PROVIDED IN 23-5-162."

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24 **Section 2.** Section 23-5-631, MCA, is amended to read:

25 **"23-5-631. Examination and approval of new video gambling machines and associated equipment**
26 **-- fee.** (1) The department shall examine and may approve a new video gambling machine or associated
27 equipment or a modification to an approved machine or associated equipment that is manufactured, sold,
28 or distributed for use in the state before the video gambling machine or associated equipment is sold,
29 played, or used. A licensed manufacturer or distributor may bring a video gambling machine or associated
30 equipment AUTHORIZED BY THIS CHAPTER into the state for research and development on behalf of a

1 licensed manufacturer prior to submission of the machine or equipment to the department for approval.

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

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

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

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

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19 operator may not supply a video gambling machine or associated equipment to a manufacturer, distributor,
20 route operator, or operator unless the machine or equipment has been approved by the department."

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22 NEW SECTION. Section 3. Effective dates. ~~(1) [Sections 2 and 3 and this section] are effective~~
23 ~~on passage and approval.~~

24 ~~(2) [Section 1] DATE. [THIS ACT] is effective July 1, 1997.~~

25

-END-

1 SENATE BILL NO. 368

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30 equipment AUTHORIZED BY THIS CHAPTER into the state for research and development on behalf of a

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18 equipment prior to its distribution and placement for play by the public. A manufacturer, distributor, or route
19 operator may not supply a video gambling machine or associated equipment to a manufacturer, distributor,
20 route operator, or operator unless the machine or equipment has been approved by the department."

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22 NEW SECTION. Section 3. Effective dates. ~~(1) [Sections 2 and 3 and this section] are effective~~
23 ~~on passage and approval.~~

24 ~~(2) [Section 1]~~ DATE. [THIS ACT] is effective July 1, 1997.

25 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0368, third reading

DESCRIPTION OF PROPOSED LEGISLATION:

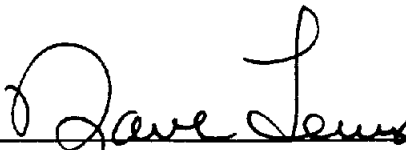
An act regulating business practices relating to the sale, and importation of video gambling machines.

ASSUMPTIONS:

1. Passage of SB 368 would not affect the number of gambling machines in play at any one time.
2. Passage of SB 368 would not affect the reported gross income from video gambling machines in play during the biennium.
3. SB 368 is not expected to increase the cost of administering gambling laws significantly. The only task not already performed by the Gambling Control Division and required by this legislation is to track shipments out of state. The division estimates this task would not increase operating expenses significantly.

FISCAL IMPACT:

There is no fiscal impact.

 2-25-97

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning



J.D. LYNCH, PRIMARY SPONSOR DATE

Fiscal Note for SB0368, third reading

Am SB 368- #2

SENATE BILL NO. 368

INTRODUCED BY LYNCH

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING BUSINESS PRACTICES RELATING TO THE SALE,
AND IMPORTATION, AND REPLACEMENT OF VIDEO GAMBLING MACHINES; REVISING THE ALLOCATION
OF VIDEO GAMBLING MACHINE PERMIT FEES; AMENDING SECTIONS ~~23-5-612, 23-5-152, 23-5-612,~~
~~23-5-614,~~ AND 23-5-631, MCA; AND PROVIDING AN EFFECTIVE ~~DATES~~ DATE DATES."

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

~~Section 1. Section 23-5-612, MCA, is amended to read:~~

~~"23-5-612. Machine permits fee. (1) The department, upon payment of the fee provided in subsection (2) and in conformance with rules adopted under this part, shall issue to the operator an annual permit for an approved video gambling machine.~~

~~(2) (a) The department shall charge an annual permit fee of \$200 for each video gambling machine permit. The fee must be prorated on a quarterly basis but may not be prorated to allow a permit to expire before June 30. The department may not grant a refund if the video gambling machine ceases operation before the permit expires.~~

~~(b) If the person holding the gambling operator's license for the premises in which the machine is located changes during the first quarter of the permit year and the new operator has received an operator's license and if a machine transfer processing fee of \$25 per for each machine is paid to the department, the permit remains valid for the remainder of the permit year.~~

~~(c) If a video gambling machine for which a permit has been obtained is replaced by another machine, a new permit is not needed for the replacement machine and the permit for the replaced machine transfers to the replacement machine for the remainder of the term of the permit. The department may charge the permittee a fee equal to the cost of implementing the transfer of the permit.~~

~~(3) The department shall retain 50% of the total permit fee collected under subsection (2)(a) and 100% of the machine transfer processing fee collected under subsection subsections (2)(b) and (2)(c) for purposes of administering this part. The balance of the fee collected under subsection (2)(a) must be returned on a quarterly basis to the local government jurisdiction in which the gambling machine is located.~~

1 ~~The local government portion of the fee is statutorily appropriated to the department, as provided in~~
 2 ~~17-7-502, for deposit in the local government treasury."~~

3

4 **SECTION 1. SECTION 23-5-152, MCA, IS AMENDED TO READ:**

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

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

11 (b) operate an illegal gambling enterprise.

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

15 (3) (a) The department may adopt rules to license persons to manufacture gambling devices that
 16 are not legal for public play in the state ~~and are manufactured only for export from the state.~~

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

20 ~~(e)~~ (4) (a) A person licensed under subsection (3) may conduct only those activities authorized
 21 under this subsection (4).

22 (b) A licensee may bring an illegal gambling device, including an illegal video gambling machine,
 23 into the state if:

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

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

28 (iii) the illegal gambling device will be exported from the state; and

29 (iv) the licensee has notified the department and received authorization from the department to bring
 30 the illegal gambling device into the state. The licensee is subject to reporting requirements provided for in

1 rules adopted under subsection (3)(a).

2 (c) A licensee may also bring an illegal video gambling machine into the state if:

3 (i) the illegal video gambling machine will be reconditioned, refurbished, repaired, or otherwise
4 substantially modified for conversion to an authorized video gambling machine; and

5 (ii) the licensee has notified the department and has received authorization from the department
6 to bring the illegal video gambling machine into the state. The licensee is subject to reporting requirements
7 provided for in rules adopted under subsection (3)(a).

8 ~~(4)(5)~~ An illegal gambling device may be possessed or located for display purposes only and not
9 for operation:

10 (a) in a public or private museum; or

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

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14 **SECTION 2. SECTION 23-5-612, MCA, IS AMENDED TO READ:**

15 **"23-5-612. Machine permits -- fee.** (1) The department, upon payment of the fee provided in
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23 located changes during the first quarter of the permit year and the new operator has received an operator's
24 license and if a machine transfer processing fee of \$25 per machine is paid to the department, the permit
25 remains valid for the remainder of the permit year.

26 (3) The department shall ~~retain~~ deposit 50% of the total permit fee collected under subsection
27 (2)(a) and 100% of the machine transfer processing fee collected under subsection (2)(b) in the state
28 special revenue fund for purposes of administering this part and for other purposes provided by law. The
29 balance of the fee collected under subsection (2)(a) must be returned on a quarterly basis to the local
30 government jurisdiction in which the gambling machine is located. The local government portion of the fee

1 is statutorily appropriated to the department, as provided in 17-7-502, for deposit in the local government
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11 (2) A lienholder who acquires title to video gambling machines through a foreclosure action
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14 (3) A licensed manufacturer or distributor may sell video gambling machines and associated
15 equipment approved by the department ~~in~~ FOR DELIVERY TO any jurisdiction outside of this state ~~in which~~
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17 MACHINES OR EQUIPMENT COMPLIES WITH ALL APPLICABLE LOCAL, TRIBAL, STATE, AND FEDERAL
18 LAWS AND REGULATIONS. Prior to the date of the sale, the seller shall notify the department of the
19 TERMS OF THE sale, THE IDENTITIES OF THE SELLER, PURCHASER, AND PERSON TO WHOM THE
20 SHIPMENT WILL BE MADE, THE TYPE AND NUMBER OF MACHINES OR EQUIPMENT TO BE SOLD, AND
21 THE METHOD OF SHIPMENT and provide the department with the approval of the jurisdiction in which the
22 machines or equipment will be received. A PERSON CONVICTED OF PURPOSELY OR KNOWINGLY
23 VIOLATING THIS SUBSECTION SHALL BE PUNISHED AS PROVIDED IN 23-5-162."

24

25 **Section 4.** Section 23-5-631, MCA, is amended to read:

26 **"23-5-631. Examination and approval of new video gambling machines and associated equipment**
27 **-- fee.** (1) The department shall examine and may approve a new video gambling machine or associated
28 equipment or a modification to an approved machine or associated equipment that is manufactured, sold,
29 or distributed for use in the state before the video gambling machine or associated equipment is sold,
30 played, or used. A licensed manufacturer or distributor may bring a video gambling machine or associated

1 equipment AUTHORIZED BY THIS CHAPTER into the state for research and development on behalf of a
 2 licensed manufacturer prior to submission of the machine or equipment to the department for approval.

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

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

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

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

17 (6) The department may inspect and test and approve, disapprove, or place a condition upon a
 18 video gambling machine or associated equipment or a modification to an approved machine or associated
 19 equipment prior to its distribution and placement for play by the public. A manufacturer, distributor, or route
 20 operator may not supply a video gambling machine or associated equipment to a manufacturer, distributor,
 21 route operator, or operator unless the machine or equipment has been approved by the department."
 22

23 NEW SECTION. SECTION 5. ALLOCATION OF MACHINE PERMIT FEES. THERE IS ALLOCATED
 24 \$300,000 FROM THE STATE SPECIAL REVENUE FUND FROM THE FEES COLLECTED PURSUANT TO
 25 23-5-612 FOR PURPOSES OF THE PATHOLOGICAL GAMBLING TREATMENT AND PROBLEM GAMBLING
 26 PREVENTION PROGRAM PROVIDED FOR IN SENATE BILL NO. 208.

27
 28 NEW SECTION. Section 6. Effective dates. ~~(1) [Sections 2 and 3 and this section] are effective~~
 29 ~~on passage and approval.~~

30 ~~(2) [Section 1] DATE: [THIS ACT] is effective July 1, 1997. DATES. (1) [SECTION 1 AND THIS~~

1 SECTION] ARE EFFECTIVE ON PASSAGE AND APPROVAL.

2 (2) [SECTIONS 2 THROUGH 5] ARE EFFECTIVE JULY 1, 1997.

3 -END-

SENATE BILL NO. 368

INTRODUCED BY LYNCH

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING BUSINESS PRACTICES RELATING TO THE SALE, AND IMPORTATION, AND REPLACEMENT OF VIDEO GAMBLING MACHINES; ~~REVISING THE ALLOCATION OF VIDEO GAMBLING MACHINE PERMIT FEES; REQUIRING IN-STATE MANUFACTURERS TO SELL IN THIS STATE;~~ AMENDING SECTIONS ~~23-5-612,~~ 23-5-152, 23-5-612, 23-5-614, AND 23-5-631, MCA; AND PROVIDING AN EFFECTIVE ~~DATES~~ DATE DATES."

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

~~Section 1. Section 23-5-612, MCA, is amended to read:~~

~~"23-5-612. Machine permits fee. (1) The department, upon payment of the fee provided in subsection (2) and in conformance with rules adopted under this part, shall issue to the operator an annual permit for an approved video gambling machine.~~

~~(2) (a) The department shall charge an annual permit fee of \$200 for each video gambling machine permit. The fee must be prorated on a quarterly basis but may not be prorated to allow a permit to expire before June 30. The department may not grant a refund if the video gambling machine ceases operation before the permit expires.~~

~~(b) If the person holding the gambling operator's license for the premises in which the machine is located changes during the first quarter of the permit year and the new operator has received an operator's license and if a machine transfer processing fee of \$25 per for each machine is paid to the department, the permit remains valid for the remainder of the permit year.~~

~~(c) If a video gambling machine for which a permit has been obtained is replaced by another machine, a new permit is not needed for the replacement machine and the permit for the replaced machine transfers to the replacement machine for the remainder of the term of the permit. The department may charge the permittee a fee equal to the cost of implementing the transfer of the permit.~~

~~(3) The department shall retain 50% of the total permit fee collected under subsection (2)(a) and 100% of the machine transfer processing fee collected under subsection subsections (2)(b) and (2)(c) for purposes of administering this part. The balance of the fee collected under subsection (2)(a) must be~~

1 ~~returned on a quarterly basis to the local government jurisdiction in which the gambling machine is located.~~
 2 ~~The local government portion of the fee is statutorily appropriated to the department, as provided in~~
 3 ~~17-7-502, for deposit in the local government treasury."~~

4

5 **SECTION 1. SECTION 23-5-152, MCA, IS AMENDED TO READ:**

6 **"23-5-152. Possession of illegal gambling device or conducting illegal gambling enterprise**
 7 **prohibited -- exceptions.** (1) Except as provided in 23-5-153 and subsections (2) through ~~(4)~~(5) of this
 8 section, it is a misdemeanor punishable under 23-5-161 for a person to purposely or knowingly:

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

12 (b) operate an illegal gambling enterprise.

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

16 (3) (a) The department may adopt rules to license persons to manufacture gambling devices that
 17 are not legal for public play in the state ~~and are manufactured only for export from the state.~~

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

21 ~~(4)~~ (a) A person licensed under subsection (3) may conduct only those activities authorized
 22 under this subsection (4).

23 (b) A licensee may bring an illegal gambling device, including an illegal video gambling machine,
 24 into the state if:

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

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

29 (iii) the illegal gambling device will be exported from the state; and

30 (iv) the licensee has notified the department and received authorization from the department to bring

1 the illegal gambling device into the state. The licensee is subject to reporting requirements provided for in
2 rules adopted under subsection (3)(a).

3 (c) A licensee may also bring an illegal video gambling machine into the state if:

4 (i) the illegal video gambling machine will be reconditioned, refurbished, repaired, or otherwise
5 substantially modified for conversion to an authorized video gambling machine; and

6 (ii) the licensee has notified the department and has received authorization from the department
7 to bring the illegal video gambling machine into the state. The licensee is subject to reporting requirements
8 provided for in rules adopted under subsection (3)(a).

9 ~~(4)(5)~~ An illegal gambling device may be possessed or located for display purposes only and not
10 for operation:

11 (a) in a public or private museum; or

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

14

15 **SECTION 2. SECTION 23-5-612, MCA, IS AMENDED TO READ:**

16 "23-5-612. **Machine permits -- fee.** (1) The department, upon payment of the fee provided in
17 subsection (2) and in conformance with rules adopted under this part, shall issue to the operator an annual
18 permit for an approved video gambling machine.

19 (2) (a) The department shall charge an annual permit fee of \$200 for each video gambling machine
20 permit. The fee must be prorated on a quarterly basis but may not be prorated to allow a permit to expire
21 before June 30. The department may not grant a refund if the video gambling machine ceases operation
22 before the permit expires.

23 (b) If the person holding the gambling operator's license for the premises in which the machine is
24 located changes during the first quarter of the permit year and the new operator has received an operator's
25 license and if a machine transfer processing fee of \$25 per machine is paid to the department, the permit
26 remains valid for the remainder of the permit year.

27 (3) The department shall ~~retain~~ deposit 50% of the total permit fee collected under subsection
28 (2)(a) and 100% of the machine transfer processing fee collected under subsection (2)(b) in the state
29 special revenue fund for purposes of administering this part and for other purposes provided by law. The
30 balance of the fee collected under subsection (2)(a) must be returned on a quarterly basis to the local

1 government jurisdiction in which the gambling machine is located. The local government portion of the fee
 2 is statutorily appropriated to the department, as provided in 17-7-502, for deposit in the local government
 3 treasury."

4

5 **Section 3.** Section 23-5-614, MCA, is amended to read:

6 **"23-5-614. Sale of video gambling machines by operator or lienholder.** (1) A licensed operator who
 7 is not licensed as a manufacturer, distributor, or route operator may sell up to 20 video gambling machines
 8 in a calendar year if the operator:

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

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

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

15 (3) A licensed manufacturer or distributor may sell video gambling machines and associated
 16 equipment approved by the department in FOR DELIVERY TO any jurisdiction outside of this state in which
 17 it is legal to do so under the laws of that jurisdiction IF THE SALE AND TRANSPORTATION OF THE
 18 MACHINES OR EQUIPMENT COMPLIES WITH ALL APPLICABLE LOCAL, TRIBAL, STATE, AND FEDERAL
 19 LAWS AND REGULATIONS. Prior to the date of the sale, the seller shall notify the department of the
 20 TERMS OF THE sale, THE IDENTITIES OF THE SELLER, PURCHASER, AND PERSON TO WHOM THE
 21 SHIPMENT WILL BE MADE, THE TYPE AND NUMBER OF MACHINES OR EQUIPMENT TO BE SOLD, AND
 22 THE METHOD OF SHIPMENT and provide the department with the approval of the jurisdiction in which the
 23 machines or equipment will be received. A PERSON CONVICTED OF PURPOSELY OR KNOWINGLY
 24 VIOLATING THIS SUBSECTION SHALL BE PUNISHED AS PROVIDED IN 23-5-162.

25 (4) A LICENSED MANUFACTURER THAT MANUFACTURES VIDEO GAMBLING MACHINES OR
 26 ASSOCIATED EQUIPMENT IN THIS STATE SHALL OFFER THE MACHINES OR ASSOCIATED EQUIPMENT
 27 FOR SALE TO ANY PERSON IN THIS STATE LEGALLY ENTITLED TO PURCHASE THE MACHINES OR
 28 EQUIPMENT. THE DEPARTMENT SHALL TAKE APPROPRIATE ACTION UNDER 23-5-136 AGAINST A
 29 MANUFACTURER THAT FAILS TO COMPLY WITH THIS SUBSECTION OR THAT SELLS OR OFFERS FOR
 30 SALE A MACHINE OR ASSOCIATED EQUIPMENT IN THIS STATE AT A PRICE THAT IS UNJUSTIFIABLY

1 ~~HIGHER THAN THE PRICE CHARGED OUTSIDE OF THIS STATE FOR THE SAME OR A COMPARABLE~~
2 ~~MACHINE OR ASSOCIATED EQUIPMENT."~~

3

4 **Section 4.** Section 23-5-631, MCA, is amended to read:

5 **"23-5-631. Examination and approval of new video gambling machines and associated equipment**

6 -- **fee.** (1) The department shall examine and may approve a new video gambling machine or associated
7 equipment or a modification to an approved machine or associated equipment that is manufactured, sold,
8 or distributed for use in the state before the video gambling machine or associated equipment is sold,
9 played, or used. A licensed manufacturer or distributor may bring a video gambling machine or associated
10 equipment AUTHORIZED BY THIS CHAPTER into the state for research and development on behalf of a
11 licensed manufacturer prior to submission of the machine or equipment to the department for approval.

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

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

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

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

26 (6) The department may inspect and test and approve, disapprove, or place a condition upon a
27 video gambling machine or associated equipment or a modification to an approved machine or associated
28 equipment prior to its distribution and placement for play by the public. A manufacturer, distributor, or route
29 operator may not supply a video gambling machine or associated equipment to a manufacturer, distributor,
30 route operator, or operator unless the machine or equipment has been approved by the department."

1 ~~NEW SECTION. SECTION 5. ALLOCATION OF MACHINE PERMIT FEES. THERE IS ALLOCATED~~
 2 ~~\$300,000 FROM THE STATE SPECIAL REVENUE FUND FROM THE FEES COLLECTED PURSUANT TO~~
 3 ~~23-5-612 FOR PURPOSES OF THE PATHOLOGICAL GAMBLING TREATMENT AND PROBLEM GAMBLING~~
 4 ~~PREVENTION PROGRAM PROVIDED FOR IN SENATE BILL NO. 208.~~

5

6 ~~NEW SECTION. Section 5. Effective dates. (1) [Sections 2 and 3 and this section] are effective~~
 7 ~~on passage and approval.~~

8 ~~(2) [Section 1] DATE. [THIS ACT] is effective July 1, 1997. DATES. (1) [SECTION 1 AND THIS~~
 9 ~~SECTION] ARE EFFECTIVE ON PASSAGE AND APPROVAL.~~

10 ~~(2) [SECTIONS 2 THROUGH 6 4] ARE EFFECTIVE JULY 1, 1997.~~

11

-END-