

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
6656 SENATE STATE AFFAIRS

*100*

DATE: \_\_\_\_\_

PROCESSED:	_____	YES
	_____	NO
SENT TO INV:	_____	YES
DATE SENT:	_____	

TO: VIDEO GAMING CONTROL BUREAU  
1125 MISSOULA AVENUE  
HELENA, MONTANA 59620

RE: "REPLACEMENT" DECAL REQUEST

FROM: # \_\_\_\_\_ (LIQ. LIC. #)  
 \_\_\_\_\_ (ESTABLISHMENT NAME)  
 \_\_\_\_\_ (LICENSEE NAME)  
 # \_\_\_\_\_ (MACHINE SERIAL #)  
 \_\_\_\_\_ (POKER/KENO/BINGO)  
 # \_\_\_\_\_ (DECAL #)

Please issue a "Replacement" decal for the above referenced video gaming machine. The original decal was: (check one)

Lost in mail     Lost after receipt     Placed wrong on machine

I, \_\_\_\_\_, the licensee of the (Print Name of Licensee) establishment, swear that if "replaced" decal is ever found, I will return it to the Video Gaming Control Bureau immediately.

I understand that an Investigator will affix the replacement decal as soon as possible.

\_\_\_\_\_  
PRINT Name of Licensee      SIGNATURE of Licensee      Date  
If Corporate Licensee - officer signature required.

NOTARY SEAL  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MONTANA



# Tavern Association

Affiliated and Associated with the NLBA

PROFESSIONAL PLAZA - SUITE AB-2  
900 N. MONTANA AVENUE - P.O. BOX 851  
Helena, MT 59624 / PHONE 406-442-5040

TO: ALL MTA MEMBERS

May 1, 1989

## RECAP OF SB431 - REVISION OF GAMBLING LAWS

SB431 was passed into law by the 51st Legislative Assembly. As of May 1, 1989, it has yet to be signed by the Governor, but his approval is expected. SB431 is a wide-ranging revision of Montana's gambling laws; it does not simply amend or repeal existing code sections.

We will attempt in this recap to outline the substantive provisions in each of the six sections which, for the purposes of this report, have been designated as:

1. GENERAL PROVISIONS
2. LIVE CARD GAMES
3. LIVE KENO, BINGO & RAFFLES
4. VIDEO GAMING MACHINES
5. SPORTS POOLS & CALCUTTA POOLS
6. GAMING ADVISORY COUNCIL, IMPLEMENTATION, EFFECTIVE DATES

Throughout, "department" means the Department of Justice (DOJ). "MAPA" means "Montana Administrative Procedure Act"; "DOC" means Department of Commerce; "DOR" means Department of Revenue.

### GENERAL PROVISIONS

1. A license or permit for any type of gambling is a privilege that can be revoked only for good cause. No vested rights are acquired.
2. Local governments may not license, regulate, or tax gambling but may zone areas where it is prohibited. They may not restrict the number of licenses the department may issue.
3. Department allowed to obtain criminal information and records from criminal justice and law enforcement agencies. Department has search, seizure, and arrest powers and may report gambling violations to the county attorneys.
4. All licensing, administration, recordkeeping, tax and fee collection, license and permit suspension and revocation, and rulemaking authority rests with the department for the types of gambling the bill covers.
5. A former employee of the department cannot be involved in operating gambling or in the administration or prosecution of gambling laws during the first year after leaving the department. This includes peace officers and prosecutors. Special exemption for person who is involved in charitable or fraternal organizations that conduct gambling activities.

6. Keno and bingo callers do not have to be licensed, but have to be 18 years of age or older.

7. Remedies, other than criminal penalties, that may be imposed by the department or a court for gambling violations include:

- Temporary cease and desist order issued by the department not effective for more than 60 days.
- Following notice and opportunity for hearing within 20 days of temporary cease and desist order, with the right of judicial review under MAPA:
  - (a) issue permanent cease and desist order which remains in effect pending judicial review;
  - (b) place a licensee on probation;
  - (c) suspend license or permit for gambling activity, device, or enterprise involved in the violation for no more than 180 days;
  - (d) revoke a license or permit for gambling activity, device, or enterprise involved in the act or practice constituting the violation;
  - (e) impose civil penalty not to exceed \$10,000 for each violation, whether or not the person is licensed by the department;
  - (f) impose any combination of the foregoing; and
  - (g) bring an action in district court for relief against the act or practice.
- On proper showing, the court is allowed to suspend or revoke a license or permit in an action brought by the department; issue restraining order, a temporary or permanent injunction, or other appropriate writ.

8. A lien that arises upon failure to pay a civil penalty is a lien on the licensed premises and devices, not on all assets and property of the person (such as a home and other non-gambling related assets).

9. The burden is on the department to prove unfitness, rather than making the applicant prove fitness, to qualify for licensure.

10. A person must obtain an "operator's license" before getting a license for a specific type of gambling. No fee charged.

11. Gambling not specifically authorized is prohibited.

12. A person is guilty of a felony if convicted of purposely or knowingly:

- counterfeiting, altering, or wrongfully displaying a seal, decal, license identification number or device, or other document issued by the department;
- obtaining (by gambling) money, property, or anything of value that exceeds \$300 by misrepresentation, fraud, use of illegal gambling device or illegal gambling enterprise. Under \$300 is a misdemeanor;
- manipulating, attempting or conspiring to manipulate the outcome of a video gambling machine by physically tampering or other interference with the proper functioning of the machine.

13. Payment for gambling must be in cash, except raffles. It is specifically provided that a person in a gambling establishment may use a check or credit card to pay for non-gambling goods or services, or to obtain cash to be used for gambling.

14. No one under 18 years of age can participate in a gambling activity.

15. Possession of illegal gambling devices prohibited, except for manufacturers of

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equipment who export from the state. Possession of antique slot machines (mechanically operated, manufactured prior to 1950) permitted under strict limitations.

16. MISDEMEANOR CRIMINAL PENALTIES: (these apply upon conviction of purposely or knowingly violating a provision of this law, the punishment of which is for a misdemeanor.)

- 1st offense: Fine of not more than \$500.
- 2nd offense: Within 5 years of first conviction, a fine of not more than \$1,000 or 6 months, or both.
- 3rd offense: Within 5 years of second conviction, a fine or not more than \$10,000 or 1 year, or both.
- 4th offense: Within 5 years of third conviction, a fine of not more than \$10,000 or 1 year, or both, and all licenses and permits the person holds are revoked (those pertaining to gambling), and the person is forever barred from receiving any license or permit under this gambling law.

When five years have passed following a conviction, the record of that conviction may be made available only to criminal justice agencies or upon court order.

17. FELONY CRIMINAL PENALTY: Penalty again applies to a person who is convicted of purposely or knowingly violating a provision of the law, the punishment for which is a felony: not more than \$50,000 or imprisoned for not more than 10 years, or both, for each violation. There are three sections that carry a felony penalty (see #12 of this report).

18. County attorney has the primary and original duty to prosecute gambling offenses. The attorney general may do so if the county attorney does not.

LIVE CARD GAMES

1. Only live card games authorized for public play are bridge, cribbage, hearts, panguingue, pinochle, pitch, poker, rummy, solo and whist. (Jacks or Better poker was amended into the bill in the House but was later deleted.) Games must be conducted only in presence and under control of licensed dealer in licensed premises.
2. Annual dealer's license required: 1st year = \$75; renewal = \$25. Department to adopt rules for temporary licensing.
3. To obtain an annual permit to run a live card game, you need: (a) an operator's license; and (b) a license to sell alcoholic beverages for on-premise consumption. Grandfather Clause: If you were running legal tables on 1/15/89 and did not have an on-premise alcoholic beverage license, but had a license to sell food, cigarettes, or any other consumable product, you can be granted an operator's license and permit for live tables.
4. Non-prorated annual fees: \$250 for the first table; \$500 for each additional table. Local government licensing is prohibited. Maximum payout per live card game raised from \$100 to \$300. Live card games prohibited between 2AM and 8AM unless the local government adopts an ordinance to allow play between those hours.

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### LIVE KENO, BINGO, RAFFLES

1. Qualified charitable organizations exempt from license fees and taxes if they were qualified on 1/15/89. If the organization was formed after that date, they are exempt from taxation but must pay 1/2 the license fee, and they cannot carry on these gambling activities for more than 60 days/year, and only at their main premises, or at such places operated by the government, such as fairs. Permit can be revoked or suspended if department finds the organization is contracting with a nonqualified organization to operate in a predominately commercial manner.
2. Keno and bingo callers do not have to be licensed. Non-prorated annual license fee for live keno and bingo to a person with an operator's license: \$500. No requirement for alcoholic beverage license.
3. Licensee pays 5% of net income (gross proceeds, minus the cost of equipment, supplies, personnel, and advertising allocated to the games), but at least equal to 1% of gross proceeds. Annual report and annual payment of tax required.
4. Price for individual bingo or keno card may not exceed 50¢; prize limit is \$100 per card. Player can hand in one card, play it and the same numbers (keno) for as many successive games as the house allows, without having to go back before the start of each game to get a new card. Player has to remain on the premises until card is played or withdrawn.
5. Live bingo or keno must be closed between 2AM and 8AM unless, by ordinance, the local government allows play between those hours.
6. Raffle Prizes: Maximum value of \$1,000 per ticket. Permits must be issued by the county commissioners for each raffle conducted in its jurisdiction.

### VIDEO GAMING MACHINES

1. Permits issued for the number of approved machines, not for specific machines. If a machine breaks down you can bring in another approved machine to temporarily replace it during the repair period. No fee charged for replacement machine. Machines on premises licensed to sell alcoholic beverages on premise must be placed where drinks are actually sold and normally consumed.
2. You may be granted a permit for placement of video gaming machines if:
  - (a) you have BOTH an operator's license and a license to sell alcoholic beverages for on-premise consumption;
  - (b) (GRANDFATHER CLAUSES) If, on 1/15/89, you were legally operating keno and bingo machines under an operator's license, and the premises were NOT licensed for the sale of alcoholic beverages for on-premise consumption OR operated for the principal purpose of gaming, you can get a permit for the same number of video keno or bingo machines as you were operating on 1/15/89. (This would be the convenient stores, gas stations, etc.)  
  
If, on 1/15/89, you were legally operating an establishment for the principal purpose of gaming (bingo parlors, card rooms, etc.) and had no license to sell alcoholic beverages for on premise consumption, you may be granted a permit for the placement of bingo and keno machines in your premises.
3. No more than 20 machines of any combination are allowed, no more than 10 of which can be draw poker machines.

4. Local governments, by ordinance, can authorize operation of video machines between the hours of 2AM and 8AM, but they cannot limit the number of machines allowed.
5. Annual permit fee per machine = \$200. Department keeps \$100 and local government where machine is located receives the other \$100.
6. Grandfathering of used keno machines extended to 6/30/89. Machines can be licensed without printers but must have both electronic and mechanical meters in operation.
7. All machines approved by the DOC prior to the effective date of this act (10/1/89) must be considered approved by the department. The department will adopt rules on specifications for the machines but they must substantially follow those currently in effect, as those sections read on 9/30/89. The department cannot require a machine owner or operator to make a machine comply with new specifications adopted AFTER the machine was approved.
8. Annual fee of \$1,000 for the required machine manufacturer-distributor's license. License not required for a person who merely repairs a machine.
9. Net machine income tax remains at 15%; distribution the same--1/3 to the state general fund; 2/3 to local governments.
10. Maximum bet = \$2.00; maximum payout on POKER machines = \$100; maximum on keno/bingo = \$800. Machine payback must be at least 80% of a credit played.

#### SPORTS POOLS - CALCUTTA POOLS

1. Sports Pools: Maximum amount per chance raised from \$1 to \$5; total amount that may be won increased from \$100 to \$500. Winner receives 100% payout of the value of the pool.
2. Calcuttas: Can be conducted by an organization authorized by the department, not just charitable, tax-exempt organizations. Proceeds from pool (minus administrative costs and prizes paid) are to be contributed to a charitable or nonprofit organization, association, or cause. At least 50% of the total pool has to be paid out in prizes.

#### GAMING ADVISORY COUNCIL - IMPLEMENTATION - EFFECTIVE DATES

1. A Gaming Advisory Council is created, consisting of nine members:
  - One from the Senate (appointed by Senate Committee on Committees);
  - One from the House (appointed by the House Speaker);
  - One from the public-at-large (appointed by the department);
  - Two representing local governments (appointed by the department);
  - One being a Native American (appointed by the department)
  - Three representing the gaming industry (appointed by the department).
2. Council appoints its own chairman. Terms staggered. Council to prepare annual report with recommendations for amendments to the gambling statutes, need for additional or modified rules, clarification of existing rules, etc. Council meets with department upon request of department; department meets with council upon request of council. Department gives council members a copy of each proposed change in rules when they are filed w/secretary of state, to review and comment upon prior to adoption.
3. Certain fees prorated: Fees imposed under the following sections between the

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effective date of this section (which is on passage and approval) and 10/1/89 must be prorated to cover only the period between the date the permit or license takes effect and 10/1/89:

- 23-5-321 Licensing by local governments for live card games.
- 23-5-421 Licensing by local governments for live keno, bingo, raffles.
- 23-5-612 State fee - video poker/keno.
- 23-5-625 Manufacturer-distributor's license.
- 23-5-631 Examination and approval of new machines.

4. Effective Dates:

On passage & approval: Adoption of rules, creating gaming advisory council, transferring functions of DOC and DOR to department; prorating certain fees; coordinating and codification; and effective dates.

July 1, 1989: Appropriation for Dept. of Justice.

October 1, 1989: All remaining sections.

# NEW LAW MONTANA

- 23-5-101. Renumbered 23-5-112 by Code Commissioner, 1989.
- 23-5-102. Renumbered 23-5-151 by Code Commissioner, 1989.
- 23-5-103. Renumbered 23-5-152 by Code Commissioner, 1989.
- 23-5-104. Renumbered 23-5-153 by Code Commissioner, 1989.
- 23-5-105. Repealed. Sec. 68, Ch. 642, L. 1989.
- 23-5-106. Repealed. Sec. 68, Ch. 642, L. 1989.
- 23-5-107. Repealed. Sec. 68, Ch. 642, L. 1989.
- 23-5-108. Renumbered 23-5-154 by Code Commissioner, 1989.
- 23-5-109. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-110. Public policy of state concerning gambling. (1) The legislature finds that for the purpose of ensuring the proper gambling environment in this state it is necessary and desirable to adopt a public policy regarding public gambling activities in Montana. The legislature therefore declares it is necessary to:

(a) create and maintain a uniform regulatory climate that assures players, owners, tourists, citizens, and others that the gambling industry in this state is fair and is not influenced by corrupt persons, organizations, or practices;

(b) protect legal public gambling activities from unscrupulous players and vendors and detrimental influences;

(c) protect the public from unscrupulous proprietors and operators of gambling establishments, games, and devices;

(d) protect the state and local governments from those who would conduct illegal gambling activities that deprive those governments of their tax revenues;

(e) protect the health, safety, and welfare of all citizens of this state, including those who do not gamble, by regulating gambling activities; and

(f) promote programs necessary to provide assistance to those who are adversely affected by legalized gambling, including compulsive gamblers and their families.

(2) The legislature adopts the policy that an applicant for a license or permit or other department approval under parts 1 through 6 of this chapter does not have a right to the issuance of a license or permit or the granting of the approval sought. The issuance of a license or permit issued or other department approval granted pursuant to the provisions of parts 1 through 6 of this chapter is a privilege revocable only for good cause. A holder does not acquire a vested right in the license or permit issued or other department approval granted. A license or permit issued under parts 1 through 6 of this chapter may not be sold, assigned, leased, or transferred.

(3) Revenue to fund the expense of administration and control of gambling as regulated by parts 1 through 6 of this chapter must be derived solely from fees, taxes, and penalties on

gambling activities, except the gambling activities of the Montana state lottery and the parimutuel industry.

23-5-111. Construction and application. (1) In view of Article III, section 9, of the Montana constitution, Chapter 642, Laws of 1989, must be strictly construed by the department and the courts to allow only those types of gambling and gambling activity that are specifically and clearly allowed by Chapter 642, Laws of 1989.

(2) This chapter applies only to public gambling activities within the state of Montana.

23-5-112. Definitions. Unless the context requires otherwise, the following definitions apply to parts 1 through 8 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 with a card bearing a printed design of 5 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each letter above one of the columns. No more than 75 numbers may be used. One number must appear in each square, except for the center square, which may be considered a free play. Numbers are randomly drawn using authorized equipment until the game is won by the person or persons who first cover a previously designated arrangement of numbers on the bingo card.

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

(6) "Card game table" or "table" means a live card game table authorized by permit and made available to the public on the premises of a licensed gambling operator.

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

(8) "Department" means the department of justice.

(9) "Distributor" means a person who:

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

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

(10) "Gambling" or "gambling activity" means risking money, credit, deposit, check, property, or any other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling device or gambling enterprise.

(11) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use

in any gambling activity.

(12) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme, or agreement to provide gambling or a gambling device to the public.

(13) "Gross proceeds" means gross revenue received less prizes paid out.

(14) "Illegal gambling device" means a gambling device not specifically authorized by statute or by the rules of the department.

(15) "Illegal gambling enterprise" means a gambling enterprise that violates a statute or a rule of the department.

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

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

(18) "License" means an operator's, dealer's, or manufacturer-distributor's license issued to a person by the department.

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

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

(21) "Lottery" or "gift enterprise" means a scheme, by whatever name known, for the disposal or distribution of property by chance among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance. However, "gift enterprise" does not mean:

(a) lotteries authorized under part 10 of this chapter; or

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

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

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

(24) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 6 of this chapter.

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

(26) "Premises" means the physical building or property

within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

(27) "Public gambling" means gambling conducted in:

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

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

(28) "Raffle" means a gift enterprise in which each participant buys a chance or chances to win a prize.

(29) "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.

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

23-5-113. Department as criminal justice agency. The department is a criminal justice agency. Designated agents of the department are granted peace officer status, with the power of search, seizure, and arrest, to investigate gambling activities in this state regulated by parts 1 through 6 of this chapter and the rules of the department and to report violations to the county attorney of the county in which they occur.

23-5-114. Department employees -- activities prohibited. An employee of the department, a former department employee during the first 365 days following termination of employment, or any peace officer or prosecutor directly involved with the prosecution, investigation, regulation, or licensing of gambling may not:

(1) serve as an officer or manager of a corporation or organization, other than a nonprofit corporation or organization, that conducts a gambling activity;

(2) receive or share in, directly or indirectly, any profit of a gambling activity regulated by the department;

(3) have a beneficial or pecuniary interest in a contract for the manufacture, lease, or sale of a gambling device, the conduct of a gambling activity, or the provision of independent consultant services in connection with a gambling activity.

23-5-115. Powers and duties of department -- licensing. (1) The department shall administer the provisions of parts 1 through 6 of this chapter.

(2) The department shall adopt rules to administer and implement parts 1 through 6 of this chapter.

(3) The department shall provide licensing procedures, prescribe necessary application forms, and grant or deny license applications.

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

(5) The department may suspend, revoke, deny, or place a condition on a license issued under parts 1 through 6 of this chapter.

(6) The department may not make public or otherwise disclose information obtained in the application or tax reporting processes, except for general statistical reporting or studies.

(7) The department shall assess, collect, and disburse any fees, taxes, or charges authorized under parts 1 through 6 of this chapter.

23-5-116 through 23-5-120 reserved.

23-5-121. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-122. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-123. Disposal of money confiscated by reason of violation of gambling laws. All fines, penalties, forfeitures, and confiscated money collected by criminal, civil, or administrative process for a violation of a provision of parts 1 through 6 of this chapter or a rule of the department must be deposited one-half in the state general fund and one-half in the general fund of the county in which the violation occurred.

23-5-124 through 23-5-127. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-128 through 23-5-130 reserved.

23-5-131. Losses at illegal gambling may be recovered in civil action. A person, or his dependent or guardian, who, by playing or betting at an illegal gambling device or illegal gambling enterprise, loses money, property, or any other thing of value and pays and delivers it to another person connected with the operation or conduct of the illegal gambling device or illegal gambling enterprise, within 1 year following his loss, may:

(1) bring a civil action in a court of competent jurisdiction to recover the loss;

(2) recover the costs of the civil action and exemplary damages of no less than \$500 and no more than \$5,000; and

(3) join as a defendant any person having an interest in the illegal gambling device or illegal gambling enterprise.

23-5-132. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-133. Repealed. Sec. 88, Ch. 642, L. 1989.

23-5-134. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-135. Discharge of defendant. (1) A person against whom a civil action is brought as provided in 23-5-131 may move to have the action against him dismissed if he has repaid to the person who suffered the loss or his dependent the gambling loss, the costs of bringing the civil action, and the exemplary damages agreed upon by the parties or assessed by the court.

(2) A civil action brought to recover gambling losses does not bar or interfere with another proceeding or action, whether criminal, civil, or administrative, that may be brought under the laws of the state.

23-5-136. Injunction and other remedies. (1) If a person has engaged or is engaging in an act or practice constituting a violation of a provision of parts 1 through 8 of this chapter or a rule or order of the department, the department may:

(a) issue a temporary order to cease and desist from the gambling activity, act, or practice for a period not to exceed 60 days;

(b) following notice and an opportunity for hearing, and with the right of judicial review, under the Montana Administrative Procedure Act:

(i) issue a permanent order to cease and desist from the act or practice, which order remains in effect pending judicial review;

(ii) place a licensee on probation;

(iii) suspend for a period not to exceed 180 days a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;

(iv) revoke a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;

(v) impose a civil penalty not to exceed \$10,000 for each violation, whether or not the person is licensed by the department; and

(vi) impose any combination of the penalties contained in this subsection (1)(b); and

(c) bring an action in district court for relief against the act or practice. The department may not be required to post a bond. On proper showing, the court may:

(i) issue a restraining order, a temporary or permanent injunction, or other appropriate writ;

(ii) suspend or revoke a license or permit; and

(iii) appoint a receiver or conservator for the defendant or the assets of the defendant.

(2) A civil penalty imposed under this section must be collected by the department and deposited in the state's general fund as required by 23-5-123. If a person fails to pay the civil penalty, the amount due is a lien on the person's licensed premises and gambling devices in the state and may be recovered by the department in a civil action.

23-5-137. Judicial review. (1) (a) A person aggrieved by a final order of the department may obtain a review of the order in district court by filing with the court, within 30 days after entry of the final order, a written petition requesting that the order be modified or set aside in whole or in part.

(b) A copy of the petition must be served upon the department at the same time. When the department receives the copy of the petition, it shall certify and file in court a copy of the filing, testimony, and other evidence upon which the final order was entered by the department. When these have been filed with the court, the court has exclusive jurisdiction to affirm, modify, enforce, or set aside the final order in whole or in part. A temporary cease and desist order from the department may remain in effect until a hearing has been held and a final order has been issued pursuant to 23-5-136.

(2) (a) The review must be conducted by the district court without a jury and must be confined to the record. In a case of alleged irregularity in procedure before the department not shown in the record, proof may be taken by the court. The court, upon request, shall hear oral argument and receive written briefs.

(b) The court may not substitute its judgment for that of the department as to the weight of the evidence on questions of fact. The court may affirm the decision of the department or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (i) in violation of a constitutional or statutory provision;
- (ii) in excess of the statutory authority of the department;
- (iii) made upon unlawful procedure;
- (iv) affected by other error of law;
- (v) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record;
- (vi) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
- (vii) inadequate because findings of fact, upon issues essential to the decision, were requested but not made.

(3) The commencement of proceedings under this section, unless specifically ordered by the court, may not operate as a stay of the department's final order.

23-5-138 through 23-5-140 reserved.

23-5-141 through 23-5-144. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-145 through 23-5-150 reserved.

23-5-151. Gambling prohibited. Except as specifically authorized by statute, all forms of public gambling, lotteries, and gift enterprises are prohibited.

23-5-152. Possession of illegal gambling device prohibited -- exception. (1) Except as provided in 23-5-153 and subsection (2) of this section, it is a misdemeanor punishable under 23-5-151

for a person to purposely or knowingly have in his possession or under his control or to purposely or knowingly permit to be placed, maintained, or kept in any room, space, enclosure, or building owned, leased, or occupied by him or under his management or control an illegal gambling device. This section does not apply to a public officer or to a person coming into possession of an illegal gambling device in or by reason of the performance of an official duty and holding it to be disposed of according to law.

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

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

23-5-153. Possession of antique slot machines. (1) For the purposes of this section, an antique slot machine is a mechanically or electronically operated slot machine that at any present time is more than 25 years old.

(2) Except as provided in subsection (3), an antique slot machine may be possessed, located, and operated only in a private residential dwelling.

(3) An antique slot machine may be possessed or located for purposes of display only and not for operation in any public museum owned and operated by the state, a county, or a city. A licensed manufacturer-distributor may possess and sell antique slot machines.

(4) An antique slot machine may not be operated for any commercial or charitable purpose.

23-5-154. Soliciting or persuading persons to play illegal gambling device prohibited. A person who advertises for or solicits another person to play or engage in the use of an illegal gambling device is guilty of a misdemeanor and is punishable under 23-5-161.

23-5-155. Counterfeiting or defacing documents -- penalty.

(1) A person commits the offense of counterfeiting or defacing a document when he purposely or knowingly counterfeits, alters, or wrongfully displays a seal, decal, license, identification number or device, or other document issued by the department.

(2) A person convicted of the offense of counterfeiting or defacing a document is guilty of a felony and must be punished in accordance with 23-5-162.

23-5-156. Obtaining anything of value by fraud or operation of illegal gambling device or enterprise. (1) A person who by any gambling obtains money, property, or anything of value that does not exceed \$300 in value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a misdemeanor and is punishable as provided in 23-5-161.

(2) A person who by gambling obtains money, property, or anything of value that exceeds \$300 in value by misrepresentation.

fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a felony and is punishable as provided in 23-5-162.

23-5-157. Gambling on cash basis. (1) In every gambling activity, except raffles as authorized in 23-5-413, the consideration paid for the chance to play must be cash. A participant shall present the money needed to play the game as the game is being played. A check, credit card, note, I O U, or other evidence of indebtedness may not be offered or accepted as part of the price of participation in the gambling activity or as payment of a debt incurred in the gambling activity. The use of a check or credit card to pay for other goods or services in the establishment or to obtain cash is not a violation of this section.

(2) A person who violates this section is guilty of a misdemeanor and must be punished in accordance with 23-5-161.

23-5-158. Minors not to participate -- penalty. (1) A person may not purposely or knowingly allow a person under 18 years of age to participate in a gambling activity.

(2) A person who violates this section is guilty of a misdemeanor and must be punished in accordance with 23-5-161.

23-5-159 and 23-5-160 reserved.

23-5-161. Criminal liabilities -- misdemeanor. A person who purposely or knowingly violates a provision of parts 1 through 6 of this chapter, the punishment of which is for a misdemeanor, must upon conviction of a first offense be fined not more than \$500. Upon a second conviction within 5 years of a first conviction, a person must be fined not more than \$1,000 or imprisoned in the county jail for not more than 6 months, or both. Upon a third conviction within 5 years of a second conviction, a person must be fined not more than \$10,000 or imprisoned in the county jail for not more than 1 year, or both. Upon a fourth conviction within 5 years of a third conviction, a person must be fined not more than \$10,000 or imprisoned in the county jail for not more than 1 year, or both, and the department shall revoke all licenses and permits the person holds under parts 1 through 6 of this chapter and the person is forever barred from receipt of any license or permit under this chapter. When 5 years have passed following a conviction, the record of that conviction may be made available only to criminal justice agencies or upon court order.

23-5-162. Criminal liabilities -- felony. A person who purposely or knowingly violates a provision of parts 1 through 6 of this chapter, the punishment for which is a felony, may upon conviction be fined not more than \$50,000 or imprisoned for not more than 10 years, or both, for each violation.

23-5-163 through 23-5-170 reserved.

23-5-171. Authority of local governments to regulate gambling. (1) A local government may not license or regulate a

form of gambling authorized by parts 1 through 6 of this chapter or assess or charge any fees or taxes unless specifically authorized by statute.

(2) An incorporated city or town may enact an ordinance or resolution zoning certain areas within its incorporated limits in which gambling is prohibited.

(3) A county may enact a resolution zoning certain areas in the county, not within an incorporated city or town, in which gambling is prohibited.

(4) A county or incorporated city or town may not restrict the number of licenses that the department may issue.

23-5-172. Prosecution. The county attorney of the county in which a violation of a provision of parts 1 through 8 of this chapter occurs shall prosecute all gambling actions within the jurisdiction of the department. However, if the county attorney declines prosecution or fails to commence an action within a reasonable time, the attorney general may initiate and conduct the prosecution on behalf of the state.

23-5-173 through 23-5-175 reserved.

23-5-176. Qualifications for licensure. (1) A person whom the department determines is qualified to receive a license under the provisions of this chapter, except for the provisions of part 10, may, based on information available to, required by, or supplied to the department under department rules, be issued a state gambling license.

(2) The department shall issue a license unless the department can demonstrate that the applicant is:

(a) a person whose prior activities or criminal record:

(i) poses a threat to the public interest of the state or the effective regulation and control of gambling; or

(ii) creates a danger of illegal practices, methods, or activities in the conduct of gambling or in the carrying on of the business and financial arrangements incidental to gambling; or

(b) receiving a substantial amount of financing for the proposed operation from an unsuitable source. A lender or other source of money or credit that the department finds to meet the provisions of subsection (2)(a) may be considered an unsuitable source.

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.

(2) An operator's license must include the following information:

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

(b) the operator's name;

(c) a description of each gambling device or card game table licensed to the operator by the department for play upon the premises, including the type of game and license number or fiscal number for each licensed game; and

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

(3) The operator's license must be issued annually along with all other licenses for gambling devices or games licensed to the operator.

(4) The operator's license must be updated each time a gambling device or card game table license is newly issued or the device or game is removed from the premises.

(5) The department may not charge a fee for the issuance of an operator's license.

(6) The operator's license must be prominently displayed upon the premises for which it is issued.

23-5-201 through 23-5-211. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-212 through 23-5-220 reserved.

23-5-221. Definition. As used in this part, "Calcutta pool" means a form of auction pool conducted by an organization authorized by the department. The Calcutta pool must be an auction pool in which:

(1) a person's wager is equal to his bid;

(2) the proceeds from the pool, minus administrative costs and prizes paid, are contributed to a charitable or nonprofit corporation, association, or cause;

(3) the rules of the pool are publicly posted;

(4) no more than one wager for each competitor is allowed;

(5) at least 50% of the total pool is paid out in prizes;

(6) persons may not bid or wager money on any elementary school or high school sports event; and

(7) the underlying event has more than two entrants.

23-5-222. Calcutta pools authorized. It is hereby lawful to conduct or participate in a Calcutta pool as defined in 23-5-221.

23-5-223. Penalty. A person who violates a provision of this part is guilty of a misdemeanor punishable pursuant to 23-5-161.

23-5-224. Construction. Nothing in this part may be construed to permit a person to conduct a race meet or to bet on a race of a licensed race meet in violation of 23-4-201 and 23-4-301.

23-5-301. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-302. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-303. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-304 and 23-5-305 reserved.

23-5-306. Live card game table -- permit -- fees -- disposition of fees. (1) A person who has been granted an operator's license under 23-5-177 and a license to sell alcoholic

beverages for consumption on the premises may be granted an annual permit for the placement of live card game tables. If one or more live card game tables were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed under 16-4-401(2) but were licensed on that date to sell food, cigarettes, or any other consumable product, an operator's license and an annual permit for the placement of live card game tables may be granted to the person who legally operated the premises on January 15, 1989.

(2) The annual permit fee in lieu of taxes for each live card game table operated in a licensed operator's premises may not be prorated and must be:

- (a) \$250 for the first table; and
- (b) \$500 for each additional table.

(3) The department shall retain for administrative purposes \$100 of the fee collected under this part for each live card game table.

(4) The department shall forward on a quarterly basis the remaining balance of the fee collected under subsection (2) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the live card game table is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from fees assessed on live card game tables located in incorporated cities and towns within the county. The local government portion of this fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury.

23-5-307. Live card game tables -- hours of play -- restriction. Live card game tables must be closed for play between the hours of 2 a.m. and 8 a.m. each day. However, in the jurisdiction of a local government where a game is played, the local government may adopt an ordinance allowing play between 2 a.m. and 8 a.m.

23-5-308. Card game dealers -- license. (1) A person may not deal cards in a live card game without being licensed annually by the department.

(2) The fee for the first year in which the license is effective is \$75, and the annual renewal fee is \$25. The fee may not be prorated.

(3) The department shall retain for administrative purposes the license fee charged for the issuance of a dealer's license.

(4) A licensed dealer shall have on his person, and display upon request, his dealer's license when he is working as a dealer.

(5) The department shall adopt rules to implement temporary licensing procedures until a permanent license is issued to a dealer. The rules must provide that a temporary license may be obtained at the place where a person locally applies for a driver's license and that the receipt received upon mailing an application for a permanent license by certified mail, return receipt requested, also constitutes a temporary license. The department may not assess a fee for the temporary license.

23-5-309. Presence and control of dealer. A live card game

may not be played except on a live card game table in the presence and under the control of a licensed dealer on the premises of a licensed operator.

23-5-310 reserved.

23-5-311. Authorized card games. (1) The card games authorized by this part are and are limited to the card games known as bridge, cribbage, hearts, panguingua, pinochle, pitch, poker, rummy, solo, and whist.

(2) A person may conduct or participate in a live card game or make a live card game table available for public play of a live card game only if it is specifically authorized by this part and described by department rules.

(3) This part does not apply to games simulated on electronic video gambling machines authorized under part 6 of this chapter.

23-5-312. Prizes not to exceed three hundred dollars. A prize for an individual live card game may not exceed the value of \$300. Games may not be combined in any manner so as to increase the value of the ultimate prize awarded.

23-5-313. Rules of play to be posted -- rake-off approved. Rules governing the conduct of each game must be prominently posted within the sight of the players at a live card game table on the premises of a licensed operator. The rules must include notice of the maximum percentage rake-off, if any, and must require that the person taking the rake-off do so in an obvious manner.

23-5-314. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-315. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-316. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-317 through 23-5-320 reserved.

23-5-321. Issuance of permits by local governing bodies prohibited. A city, town, or county may not issue permits for live card games or live card game tables authorized in this part.

23-5-322. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-323. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-324 through 23-5-330 reserved.

23-5-331. Penalty. A person who purposely or knowingly violates or who procures, aids, or abets in a violation of this part or any ordinance, resolution, or rule adopted pursuant to this part is guilty of a misdemeanor punishable pursuant to 23-5-161.

23-5-332. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-401. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-402. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-403. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-404 reserved.

23-5-405. Authorized live bingo, keno, and raffles. (1) A person may conduct or participate in a live bingo and keno game or raffle only if it is operated pursuant to this part.

(2) This part does not apply to a game simulated on a video gambling machine authorized by part 6 of this chapter.

23-5-406. Exempt charitable organizations. An organization qualified for exemption under 26 U.S.C. 501(c)(3) and (c)(4) on January 15, 1989, is exempt from the taxation and license fees imposed by this part. An organization qualified for exemption under that section after that date is exempt from taxation under, and need only pay one-half the license fees under, this part if the organization carries on gambling activities for no more than 60 days a calendar year and if the activities are limited to its main premises or place of operations and to events at other places operated by other charitable organizations or by a government unit or entity. The organization shall comply with other statutes and rules relating to the operation of live bingo and keno or raffles. A qualified organization shall apply to the department for a cost-free permit to conduct charitable live bingo and keno games or raffles. The department may revoke or suspend the permit of a qualified organization that, after investigation, the department determines is contracting with a nonqualified organization to operate live bingo, keno, or raffles in a predominantly commercial manner.

23-5-407. Live bingo or keno permit -- fees -- disposition of fees. (1) A person who has been granted an operator's license may be granted an annual permit by the department to conduct live bingo or keno games on specified premises.

(2) The permit fee for each of the premises in which a live bingo or keno game is conducted may not be prorated and must be \$500.

(3) The department shall retain the permit fee for administrative costs.

23-5-408. Hours of play -- restrictions. A live bingo or keno game must be closed for play between the hours of 2 a.m. and 8 a.m. of each day. However, in the jurisdiction of a local government where a game is played, the local government may adopt an ordinance allowing play between 2 a.m. and 8 a.m.

23-5-409. Bingo and keno tax -- records -- distribution -- statement and payment. (1) A licensee who has received a permit to operate bingo or keno games shall pay to the department a tax on

5% of the net income from the operation of each live bingo and keno game operated on his premises. For purposes of this section, "net income" means gross proceeds, as defined in 23-5-112, minus the cost of equipment, supplies, personnel, and advertising allocated to the games. If in any year 5% of net income does not equal 1% of gross proceeds, then the licensee shall pay a tax of 1% of gross proceeds.

(2) A licensee shall keep a record of gross proceeds and net income in the form the department requires. At all times during the business hours of the licensee the records must be available for inspection by the department.

(3) A licensee shall annually complete and deliver to the department a statement showing the total gross proceeds and net income for each live keno or bingo game operated by him and the total amount due as live bingo or keno tax for the preceding year. This statement must contain any other relevant information required by the department.

(4) The department shall forward the tax collected under subsection (3) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed game is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from taxes on live bingo or keno games located in incorporated cities and towns within the county. The tax collected under subsection (3) is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury.

23-5-410 reserved.

23-5-411. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-412. Card prices and prizes. The price for an individual bingo or keno card may not exceed 50 cents. Bingo prizes may be paid in either tangible personal property or cash. A prize may not exceed the value of \$100 for each individual bingo award or keno card. It is unlawful to, in any manner, combine any awards so as to increase the ultimate value of the award. A player may give the caller a card with instructions on the card to play that card and its marked numbers for up to the number of successive games that the house allows and that the player has indicated on the card, upon payment of the price per game times the number of successive games indicated. The player shall remain on the house premises until the card is played or withdrawn. The caller shall keep the card until the end of the number of games indicated, and the department may by rule provide that at that time the caller shall pay the player any prizes won.

23-5-413. Raffle prizes -- permits -- exception. (1) Raffle prizes may not exceed the value of \$5,000 for each individual raffle ticket. It is unlawful to, in any manner, combine any awards so as to increase the ultimate value of the prize awarded for each ticket.

(2) A separate permit must be issued by the board of county commissioners for each raffle conducted within its jurisdiction. The permit must be issued before the raffle may be conducted. A

person who has conducted a raffle must submit an accounting to the board of county commissioners within 30 days following the completion of the raffle. The sale of raffle tickets authorized by this part is restricted to events and participants within the geographic confines of the state.

(3) (a) The restrictions of subsection (1) do not apply to a raffle conducted by a nonprofit corporation, religious corporation sole, or other nonprofit organization if the corporation or organization is permitted by the board of county commissioners to conduct the raffle. The board of county commissioners may not charge a permit fee or an investigative fee for a raffle conducted by a nonprofit veterans' organization.

(b) The nonprofit organization or corporation seeking permission under subsection (3)(a) shall apply to the board of county commissioners for the permit and provide the following information:

(i) the cost and number of raffle tickets to be sold;

(ii) the charitable purposes the proceeds of the raffle are intended to benefit; and

(iii) the proposed prizes and their value.

(c) A veterans' organization seeking exemption from the permit fee or an investigative fee shall present evidence of the organization's nonprofit status to the board of county commissioners.

(d) The proceeds from the sale of the raffle tickets may be used only for charitable purposes or to pay for prizes. The raffle prize must be in tangible personal property only and not in money, cash, stock, bonds, evidence of indebtedness, or other intangible personal property. None of the proceeds may be used for the administrative cost of conducting the raffle.

23-5-414. Restrictions on bingo and keno. In the playing of live bingo or keno, a person who is not physically present on the premises where the game is actually conducted may not be allowed to participate as a player in the game.

23-5-415 through 23-5-418. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-419 and 23-5-420 reserved.

23-5-421. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-422. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-423. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-424 through 23-5-430 reserved.

23-5-431. Criminal penalty. A person who purposely or knowingly violates or who procures, aids, or abets in a violation of this part or any ordinance, resolution, or rule adopted pursuant to this part is guilty of a misdemeanor punishable pursuant to 23-5-161.

23-5-501. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Nonprofit organization" means a charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, or service organization, other than one established for the purpose of conducting or participating in a sports pool.

(2) "Sports pool" means a card divided into squares or spaces, with the names of the participants in the pool written within such squares or spaces, for which consideration in money is paid by the person playing for each square or space for the chance to win money or other items of value on any sports event wherein the participants in such sports event are natural persons or animals.

23-5-502. Sports pools authorized. Conducting or participating in sports pools as defined and governed in this part is lawful.

23-5-503. Rules. (1) The card used for recording the pool and upon which the squares or spaces appear shall clearly indicate in advance of the sale of any chances the number of chances to be sold in that specific pool, the name of the event, the consideration to be paid for each chance, and the total amount to be paid to the winners.

(2) A chance to participate in a sports pool may not be sold other than upon the premises in which the sports pool is conducted. An individual chance to participate in a sports pool may not be sold for a consideration in excess of \$5, and the total amount to be paid to the winners of any individual sports pool may not exceed the value of \$500. Except as provided in subsection (3), the winner of any sports pool shall receive a 100% payout of the value of the sports pool.

(3) A nonprofit organization that maintains and opens to inspection upon reasonable demand records to verify that the retained portion is used to support charitable activities, scholarships or educational grants, or community service projects may retain up to 50% of the value of a sports pool.

23-5-504 through 23-5-508. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-509. Penalty. A person who purposely or knowingly violates or who procures, aids, or abets in a violation of this part is guilty of a misdemeanor punishable pursuant to 23-5-161.

23-5-510. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-511. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-601. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-602. Definitions. As used in this part, the following definitions apply:

(1) "Associated equipment" means all proprietary devices,

machines, or parts used in the manufacture or maintenance of a video gambling machine, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, metering devices, and cabinetry.

(2) "Bingo machine" means an electronic video gambling machine that, upon insertion of cash, is available to play bingo as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(3) "Draw poker machine" means an electronic video gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(4) "Keno machine" means an electronic video gambling machine that, upon insertion of cash, is available to play keno as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(5) "Net machine income" means money put into a video gambling machine minus credits paid out in cash.

(6) "Video gambling machine manufacturer-distributor" means a person who assembles, produces, makes, or supplies video gambling machines or associated equipment for sale, use, or distribution in the state.

23-5-603. Video gambling machines -- possession -- play -- restriction. (1) A person may make available for public play only the number of approved video gambling machines specifically authorized by this part.

(2) The video gambling machines specifically authorized by this part are bingo, keno, and draw poker machines. Only the number of approved machines for which permits have been granted under 23-5-612 may be made available for play by the public on the premises of a licensed operator. The department shall adopt rules allowing a video gambling machine that needs repair to be temporarily replaced while it is being repaired with a video gambling machine that is approved under the permit provisions of this part. A fee may not be charged for the replacement machine.

(3) Machinery on premises licensed to sell alcoholic beverages for consumption on the premises must be placed in the room, area, or other part of the premises in which the alcoholic beverages are sold and normally consumed.

23-5-604 reserved.

23-5-605. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-606. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-607. Expected payback -- verification. The department shall prescribe the expected payback value of one credit awarded to be at least 80% of the value of one credit played. Each video gambling machine must have an electronic accounting device that the department may use to verify the winning percentage.

23-5-608. Limitation on amount of money played and value of prizes -- payment of credits in cash. (1) A video gambling machine may not allow more than \$2 to be played on a game or award free games or credits in excess of the following amounts:

- (a) \$100 a game for a video draw poker machine; and
- (b) \$800 a game for a video keno or bingo machine.

(2) A licensee shall pay in cash all credits owed to a player as shown on a valid ticket voucher.

23-5-609. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-610. Video gambling machine net income tax -- records -- distribution -- quarterly statement and payment. (1) An operator issued a permit under this part shall pay to the department a video gambling machine tax of 15% of net machine income from each video gambling machine licensed under this part.

(2) An operator issued a permit under this part shall keep a record of net machine income in such form as the department may require. The records must at all times during the business hours of the licensee be subject to inspection by the department.

(3) An operator issued a permit under this part shall, within 15 days after the end of each quarter, complete and deliver to the department a statement showing the total net machine income from each video gambling machine licensed to him, together with the total amount due the state as video gambling machine net income tax for the preceding quarter. The statement must contain other relevant information as the department may require.

(4) (a) The department shall forward one-third of the tax collected under subsection (3) to the general fund.

(b) The department shall forward the remaining two-thirds of the tax collected under subsection (3) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county or municipal treasury. Counties are not entitled to proceeds from taxes on income from video gambling machines located in incorporated cities and towns. The two-thirds local government portion of tax collected under subsection (3) is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury.

23-5-611. Machine permit qualifications -- limitations. (1) (a) A person who has been granted an operator's license under 23-5-177 and a license to sell alcoholic beverages for consumption

on the premises may be granted a permit for the placement of video gambling machines in his premises.

(b) If video keno or bingo gambling machines were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed to sell alcoholic beverages for consumption on the premises or operated for the principal purpose of gaming and there is an operator's license for the premises under 23-5-177, a permit for the same number of video keno or bingo gambling machines as were operated on the premises on that date may be granted to the person who held the permit for such machines on those premises on that date.

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

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

(3) A licensee may not have on the premises or make available for play on the premises more than 20 machines of any combination and no more than 10 may be draw poker machines.

23-5-612. (Temporary) 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 a permit for an approved video gambling machine.

(2) The department shall charge an annual permit fee of \$200 for each video gambling machine permit. The department shall retain \$100 of the total permit fee collected for purposes of administering this part. The remaining \$100 must be returned on a quarterly basis to the local government jurisdiction in which the gambling machine is located. The local government portion of the fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit in the local government treasury.

(3) The permit expires on June 30 of each year, and the fee may not be prorated.

(4) A used keno machine may be licensed under subsection (1) without meeting the requirements of 23-5-609 if:

(a) it meets the requirements of 23-5-607 and 23-5-608;

(b) it has mechanical meters described in 23-5-609(4)(k) and electronic meters described in 23-5-609(4)(l), as that section read on September 30, 1989; and

(c) the applicant for licensure can establish to the satisfaction of the department that, on the date of application, he owns or possesses a machine that was licensed by the department prior to January 1, 1989. (Terminates June 30, 1990--sec. 3, Ch. 496, L. 1989.)

23-5-612. (Effective July 1, 1990) 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 a permit for an approved video gambling machine.

(2) The department shall charge an annual permit fee of \$200 for each video gambling machine permit. The department shall

retain \$100 of the total permit fee collected for purposes of administering this part. The remaining \$100 must be returned on a quarterly basis to the local government jurisdiction in which the gambling machine is located. The local government portion of the fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit in the local government treasury.

(3) The permit expires on June 30 of each year, and the fee may not be prorated.

(4) A used keno machine may be licensed under subsection (1) without meeting the requirements of 23-5-609 [as that section read on September 30, 1989] if the applicant for licensure can establish to the satisfaction of the department that, on the date of application, he owns or possesses a machine that was owned or operated in the state prior to June 30, 1987. A license issued under this subsection expires for all purposes no later than June 30, 1989.

23-5-613. Violations. Unless otherwise provided in this part, a person who purposely or knowingly violates or procures, aids, or abets a violation of this part or an ordinance, resolution, or rule adopted under this part is guilty of a misdemeanor punishable under 23-5-161.

23-5-614 reserved.

23-5-615. Repealed. Sec. 68, Ch. 642, L. 1980.

23-5-616. Removal of machine from public access. If a machine fails to meet the specifications and requirements of this part or any rule of the department which specification or requirement existed at the time the machine was approved at any time after its initial permit has been issued, the operator shall immediately remove the machine from public access until it meets all requirements.

23-5-617. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-618. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-619 reserved.

23-5-620. Video gambling machines -- hours of play. A video gambling machine may not be played between the hours of 2 a.m. and 8 a.m. each day. However, in the jurisdiction of a local government where a game is played, the local government may adopt an ordinance allowing play between 2 a.m. and 8 a.m.

23-5-621. Video gambling machine specifications -- rules. The department shall adopt rules describing the video gambling machines authorized by this part and stating the specifications for video gambling machines authorized by this part. The specifications in the rules must substantially follow the specifications contained in 23-5-606 and 23-5-609 as those sections read on September 30, 1989. The department shall adopt rules allowing video gambling machines to be imported into this

state and used for the purposes of trade shows, exhibitions, and similar activities.

23-5-622. Tampering with video gambling machine -- penalty. ✓

(1) A person commits the offense of tampering with a video gambling machine if he purposely or knowingly manipulates or attempts or conspires to manipulate the outcome or payoff of a video gambling machine by physical tampering or other interference with the proper functioning of the machine.

(2) A violation of this section is a felony and must be punished in accordance with 23-5-162.

23-5-623 and 23-5-624 reserved.

23-5-625. Video gambling machine manufacturer-distributor -- license -- fees. (1) It is unlawful for any person to assemble, produce, manufacture, or supply any video gambling machine or associated equipment for use or play in the state without having first been issued a video gambling machine manufacturer-distributor's license by the department.

(2) The department shall charge an annual license fee of \$1,000 for the issuance or renewal of a video gambling machine manufacturer-distributor's license.

(3) In addition to other license fees, the department may charge the applicant a one-time video gambling machine manufacturer-distributor's license application processing fee. The processing fee may not exceed the department's actual costs for processing an application.

(4) All video gambling machine manufacturer-distributor's licenses expire on June 30 of each year, and the license fee may not be prorated.

(5) The department shall retain the license and processing fees collected for purposes of administering this part, unless otherwise provided.

23-5-626. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-627. Repealed. Sec. 68, Ch. 642, L. 1989.

23-5-628 through 23-5-630 reserved.

23-5-631. Examination and approval of new video gambling machines and associated equipment -- fee. (1) The department shall examine and may approve a new video gambling machine and associated equipment which are manufactured, sold, or distributed for use in the state before the video gambling machine or associated equipment is sold, played, or used.

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

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

(4) The department shall require the

manufacturer-distributor seeking the examination and approval of a new video gambling machine or associated equipment to pay the anticipated actual costs of the examination in advance and, after the completion of the examination, shall refund overpayments or charge and collect amounts sufficient to reimburse the department for underpayments of actual costs.

(5) The department may inspect and test and approve, disapprove, or place a condition upon a video gambling machine prior to its distribution and placement for play by the public.

23-5-632 through 23-5-634 reserved.

23-5-635. Repealed. Sec. 88, Ch. 642, L. 1989.

23-5-636. Repealed. Sec. 88, Ch. 642, L. 1989.

23-5-1001. Short title. This part may be cited as the "Montana State Lottery Act of 1985".

23-5-1002. Purpose. (1) The purpose of this part is to allow lottery games in which the player purchases from the state, through the administrators of the state lottery, a chance to win a prize. This part does not allow and may not be construed to allow any game in which a player competes against or plays with any other person, including a person employed by an establishment in which a lottery game may be played.

(2) The administration and construction of this part must comply with Article III, section 9, of the Montana constitution, which mandates that all forms of gambling are prohibited unless authorized by acts of the legislature or by the people through initiative or referendum. Therefore, this part must be strictly construed to allow only those games that are within the scope of this section and within the definition of "lottery game".

(3) The state lottery may not:

(a) operate a slot machine or carry on any form of gambling prohibited by the laws of this state; or

(b) carry on any form of gambling permitted by the laws of this state but which is not a lottery game within the scope of this section and within the definition of "lottery game".

23-5-1003. Definitions. As used in this part, the following definitions apply:

(1) "Commission" means the state lottery commission created by 23-5-1006.

(2) "Director" means the director appointed by the governor under 23-5-1011 to administer and manage the state lottery.

(3) "Lottery" or "state lottery" means the Montana state lottery created and operated pursuant to this part.

(4) "Lottery game" means any procedure, including any on-line or other procedure using a machine or electronic device, by which one or more prizes are distributed among persons who have paid for a chance to win a prize and includes but is not limited to weekly (or other, longer time period) winner games, instant winner games, daily numbers games, and sports pool games, except games prohibited by Title 23, chapter 5, part 1; lotteries

prohibited by Title 23, chapter 5, part 2; card games regulated by Title 23, chapter 5, part 3; raffles and bingo games governed by Title 23, chapter 5, part 4; and sports pools governed by Title 23, chapter 5, part 5.

23-5-1004 and 23-5-1005 reserved.

23-5-1006. State lottery commission -- allocation -- composition -- compensation -- quorum. (1) There is a state lottery commission.

(2) The commission consists of five members, who shall reside in Montana, appointed by the governor.

(3) At least one commissioner must have 5 years of experience as a law enforcement officer. At least one commissioner must be an attorney admitted to the practice of law in Montana. At least one commissioner must be a certified public accountant licensed in Montana.

(4) After initial appointments, each commissioner shall be appointed to a 4-year term of office, and the terms shall be staggered.

(5) A commissioner may be removed by the governor for good cause. An office that for any reason becomes vacant must be filled within 30 days by the governor, and the commissioner filling the vacancy shall serve for the rest of the unexpired term.

(6) The commission shall elect one of its members as chairman.

(7) Three or more commissioners constitute a quorum to do business, and action may be taken by a majority of a quorum.

(8) Commissioners are entitled to compensation, to be paid out of the state lottery fund, at the rate of \$50 for each day in which they are engaged in the performance of their duties and are entitled to travel, meals, and lodging expenses, to be paid out of the state lottery fund, as provided for in Title 2, chapter 118, part 5.

(9) The commission is allocated to the department of commerce for administrative purposes only as prescribed in 2-15-121.

23-5-1007. Powers and duties of commission. The commission shall:

(1) establish and operate a state lottery and may not become involved in any other gambling or gaming;

(2) determine policies for the operation of the state lottery, supervise the director and his staff, and meet with the director at least once every 3 months to make and consider recommendations, set policies, determine types and forms of lottery games to be operated by the state lottery, and transact other necessary business;

(3) maximize the net revenue paid to the superintendent of public instruction under 23-5-1027 and ensure that all policies and rules adopted further revenue maximization;

(4) subject to 23-5-1027(1), determine the percentage of the money paid for tickets or chances to be paid out as prizes;

(5) determine the price of each ticket or chance and the

number and size of prizes;

(6) provide for the conduct of drawings of winners of lottery games;

(7) carry out, with the director, a continuing study of the state lotteries of Montana and other states to make the state lottery more efficient, profitable, and secure from violations of the law;

(8) study and may enter into agreements with other lottery states to offer lottery games;

(9) prepare quarterly and annual reports on all aspects of the operation of the state lottery, including but not limited to types of games, gross revenue, prize money paid, operating expenses, net revenue to the state, contracts with gaming suppliers, and recommendations for changes to this part, and deliver a copy of each report to the governor, the department of administration, the legislative auditor, the president of the senate, the speaker of the house of representatives, and each member of the appropriate committee of each house of the legislature as determined by the president of the senate and the speaker of the house; and

(10) adopt rules relating to lottery staff sales incentives or bonuses and sales agents' commissions and any other rules necessary to carry out this part.

23-5-1008. Legislative liaison committee -- bipartisan -- compensation from lottery fund. (1) There is a legislative liaison committee.

(2) The liaison committee consists of four legislators. Two members must be from the senate and two members must be from the house of representatives. The speaker of the house and the senate committee on committees shall appoint the members of the liaison committee, and no more than two members may be of the same political party. No legislator who has any ownership interest in any gambling device or establishment may be appointed to the liaison committee.

(3) A member of the liaison committee is entitled to compensation and expenses as provided in 5-2-302, paid from money appropriated to the lottery, while performing his duties as a member of the liaison committee, as provided in subsection (4) of this section.

(4) The liaison committee shall meet once each fiscal year with the commission at Helena and shall report to each legislature on the activities and operations of the state lottery.

23-5-1009 and 23-5-1010 reserved.

23-5-1011. Director -- appointment -- compensation -- qualifications. (1) The director must be appointed by the governor and shall hold office at the pleasure of the governor.

(2) The director must be qualified by training and experience to direct the state lottery. He must be a full-time employee and may not engage in any other occupation.

(3) The director's salary is equal to 90% of the salary of the director of the department of commerce.

23-5-1012. Powers and duties of director. (1) The director shall:

(a) administer the operation of the state lottery in accordance with this part and the rules and other directives of the commission;

(b) appoint an assistant director for security and employ and direct personnel necessary to the operation of the state lottery;

(c) license lottery ticket or chance sales agents and suspend or revoke licenses pursuant to this part and commission rules; and

(d) maintain, with the assistant director for security, the security of the state lottery.

(2) With the concurrence of the commission or pursuant to commission rules, the director may enter into contracts for materials, equipment, and supplies to be used in the operation of the state lottery, for the design and installation of games, for consultant services, and for promotion of the lottery. All contracts must be made in accordance with state law. No contract is legal or enforceable that provides for the management of the state lottery or for the entire operation of its games by any private person or firm. When a contract is awarded, a performance bond satisfactory to the commission and executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the commission, in an amount equal to the price of the contract, must be delivered to the commission.

23-5-1013. Assistant director for security -- qualifications -- duties -- compensation. (1) The director shall appoint an assistant director for security, who serves at the pleasure of the director.

(2) The assistant director for security must be qualified by training and experience, have at least 5 years of law enforcement experience, and be knowledgeable and experienced in computer security.

(3) The assistant director for security shall:

(a) be responsible for a security division to assure security, honesty, fairness, and integrity in the operation and administration of the lottery, including but not limited to an examination of the background of all prospective employees, ticket or chance sales agents, lottery vendors, and lottery contractors. The security division is designated a law enforcement agency for the purpose of administering this part.

(b) in conjunction with the director, confer with the attorney general or his designee to promote and ensure security, honesty, fairness, and integrity of the operation and administration of the lottery; and

(c) in conjunction with the director, report any alleged violation of law to the attorney general, the legislative auditor, and any other appropriate law enforcement authority for further investigation and action.

(4) The salary of the assistant director for security is equal to 90% of the salary of the director of the lottery.

23-5-1014 and 23-5-1015 reserved.

23-5-1016. Ticket or chance sales agents -- licenses. (1) Lottery tickets or chances may be sold only by ticket or chance sales agents licensed by the director in accordance with this section.

(2) The commission shall by rule determine the places at which state lottery game tickets or chances may be sold.

(3) (a) Before issuing a license, the director shall consider:

(i) the financial responsibility and security of the applicant and his business or activity;

(ii) the accessibility of his place of business or activity to the public; and

(iii) the sufficiency of existing licenses to serve the public convenience and the volume of the expected sales.

(b) No person under 18 years of age may sell lottery tickets or chances.

(c) A license as an agent to sell lottery tickets or chances may not be issued to any person to engage in business exclusively as a lottery ticket or chance sales agent.

(4) The director may issue temporary licenses upon conditions he considers necessary.

(5) License applicants shall pay a \$50 fee to cover the cost of investigating and processing the application.

(6) The director may require a bond from any licensed agent in an amount provided in the commission's rules and may purchase a blanket bond covering the activities of licensed agents.

(7) A licensed agent shall display his license or a copy thereof conspicuously in accordance with the commission's rules.

(8) A license is not assignable or transferable.

(9) An employee of a ticket or chance sales agent may not be required to sell lottery game tickets or chances if the sale is against his religious or moral beliefs.

(10) Sales agents are entitled to a commission of no more than 10% of the face value of tickets and chances that they purchase from the lottery and do not return. However, to further the sale of lottery products, the lottery commission may adopt rules providing additional commissions to sales agents based on incremental sales. Commissions may not come from that part of all gross revenue that is net revenue and is paid to the superintendent of public instruction. The commissions are statutorily appropriated, as provided in 17-7-502, to the lottery.

(11) Each sales agent shall keep a complete and up-to-date set of records and accounts fully showing his sales and provide it for inspection upon request of the commission, the director, the department of commerce, the office of the legislative auditor, or the office of the attorney general.

(12) Sales agents may pay the state lottery only by check, bankdraft, electronic fund transfer, or other recorded, noncash, financial transfer method as determined by the director.

(13) A license may be suspended or revoked for failure to maintain the license qualifications provided in subsection (3) or for violation of any provision of this part or a commission rule. Prior to suspension or revocation, the licensee must be given

notice and an opportunity for a hearing.

23-5-1017. Sales restrictions. (1) The price of each lottery game ticket or chance must be clearly stated thereon. The price of a lottery game chance vended by a machine or electronic device must be clearly stated on the machine or device.

(2) Tickets and chances may not be sold to or purchased by persons under 18 years of age.

(3) Tickets and chances may not be purchased on credit.

(4) Tickets and chances may not be sold to or purchased by commissioners, the director, his staff, gaming suppliers doing business with the state lottery, suppliers' officers and employees, employees of any firm auditing or investigating the state lottery, governmental employees auditing or investigating the state lottery, or members of their households.

(5) The names of elected officials may not appear on any ticket or chance.

23-5-1018. Disclosure of odds. The director shall make adequate disclosure of the odds with respect to each state lottery game by stating the odds in lottery game advertisements and by posting the odds at each place in which tickets or chances are sold.

23-5-1019. Felony and gambling-related convictions -- ineligibility for lottery positions. No person who has been convicted of a felony or a gambling-related offense under federal law or the law of any state may be a commissioner, director, assistant director, employee of the state lottery, or licensed ticket or chance sales agent. Prior to appointment as a commissioner, director, assistant director, or employee, a person shall submit to the commission a full set of fingerprints made at a law enforcement agency by an agent or officer of such agency on forms supplied by the agency. The assistant director for security may require a ticket or chance sales agent to submit fingerprints prior to licensing.

23-5-1020. Conflict of interest. No commissioner, director, assistant director, state lottery employee, licensed ticket or chance sales agent, or member of his household may have a financial interest in any gaming supplier or any contract between the state lottery and a gaming supplier or accept any gift or thing of value from a gaming supplier.

23-5-1021. Disclosures by gaming supplier: (1) Any person, firm, association, or corporation that submits a bid or proposal for a contract to supply lottery equipment, tickets, or other material or consultant services for use in the operation of the state lottery shall disclose at the time of such bid or proposal:

(a) the supplier's business name and address and the names and addresses of the following:

(i) if the supplier is a partnership, all of the general and limited partners;

(ii) if the supplier is a trust, the trustee and all persons entitled to receive income or benefit from the trust;

(iii) if the supplier is an association, the members, officers, and directors;

(iv) if the supplier is a corporation, the officers, directors, and each owner or holder, directly or indirectly, of any equity security or other evidence of ownership of any interest in the corporation; except that, in the case of owners or holders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those owning or holding 5% or more of the publicly held securities must be disclosed;

(v) if the supplier is a subsidiary company, each intermediary company, holding company, or parent company involved therewith and the officers, directors, and stockholders of each; except that, in the case of owners or holders of publicly held securities of an intermediary company, holding company, or parent company which is a publicly traded corporation, only the names and addresses of those owning or holding 5% or more of the publicly held securities must be disclosed;

(b) if the supplier is a corporation, all the states in which the supplier is authorized to do business and the nature of that business;

(c) other jurisdictions in which the supplier has contracts to supply gaming materials, equipment, or consultant services;

(d) the details of any conviction, state or federal, of the supplier or any person whose name and address are required by subsection (1)(a) of a criminal offense punishable by imprisonment for more than 1 year and shall submit to the commission a full set of fingerprints of such person made at a law enforcement agency by an agent or officer of such agency on forms supplied by the agency;

(e) the details of any disciplinary action taken by any state against the supplier or any person whose name and address are required by subsection (1)(a) regarding any matter related to gaming consultant services or the selling, leasing, offering for sale or lease, buying, or servicing of gaming materials or equipment;

(f) audited annual financial statements for the preceding 5 years;

(g) a statement of the gross receipts realized in the preceding year from gaming consultant services and the sale, lease, or distribution of gaming materials or equipment to states operating lotteries and private persons licensed to conduct gambling, differentiating that portion of the gross receipts attributable to transactions with states operating lotteries from that portion of the gross receipts attributable to transactions with private persons licensed to conduct gambling;

(h) the name and address of any source of gaming materials or equipment for the supplier;

(i) the number of years the supplier has been in the business of supplying gaming consultant services or gaming materials or equipment; and

(j) any other information, accompanied by any documents the commission by rule may reasonably require as being necessary or appropriate in the public interest to accomplish the purposes of this part.

(2) No person, firm, association, or corporation contracting to supply gaming equipment or materials or consultant services to the state for use in the operation of the state lottery may have any financial interest in any person, firm, association, or corporation licensed as a ticket or chance sales agent.

(3) No contract for supplying consultant services or gaming materials or equipment for use in the operation of the state lottery is enforceable against the state unless the requirements of this section have been fulfilled.

23-5-1022. Drawings for and payment of prizes -- unclaimed prizes. (1) All drawings must be held in public. The selection of winning tickets may not be performed by an employee of the lottery or by a member of the commission. All drawings must be witnessed by a professional staff employee of the legislative auditor's office, and all lottery drawing equipment used in public drawings to select winning prizes or participants for prizes must be examined by the director's staff and a professional staff employee of the legislative auditor's office prior to and after each public drawing.

(2) The commission may provide for the immediate payment of prizes by the ticket or chance sales agent who sold the winning ticket or chance whenever the amount of the prize is less than an amount set by commission rule. Payment may not be made directly by a machine or device or by a computer terminal.

(3) Prizes over \$100,000 may in the discretion of the commission be paid either in one lump sum or in equal yearly installments without interest over a period of not more than 20 years, except that each installment payment must be at least \$20,000.

(4) Prizes not claimed within 6 months are forfeited and must be paid into the state lottery fund. No interest is due on a prize when a claim is delayed but made within 6 months.

(5) The right to a prize is not assignable, but prizes may be paid to a deceased winner's estate or to a person designated by judicial order.

23-5-1023 through 23-5-1025 reserved.

23-5-1026. State lottery fund. There is a fund of the enterprise fund type, as defined in 17-2-102, to be known as the state lottery fund. The gross revenue from the state lottery, consisting of money from the sale of lottery tickets and chances, ticket or chance sales agent license fees, unclaimed prizes, or any other source, must be deposited in the fund, except that, at the discretion of the director, money for prizes paid immediately by a sales agent and money equaling the sales agent's commission may be drawn by a sales agent from his gross revenue before depositing his gross revenue with the state lottery.

23-5-1027. (Temporary) Disposition of revenue. (1) A minimum of 45% of the money paid for tickets or chances must be paid out as prize money. The prize money is statutorily appropriated, as provided in 17-7-502, to the lottery.

(2) Commissions paid to lottery ticket or chance sales

agents are not a state lottery operating expense.

(3) That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise fund, is net revenue and must be paid quarterly from the enterprise fund established by 23-5-1026 to the superintendent of public instruction for distribution as equalization aid to the retirement fund obligations of elementary and high school districts in the manner provided in 20-9-532. The net revenue is statutorily appropriated, as provided in 17-7-502, to the superintendent of public instruction.

(4) The spending authority of the lottery may be increased in accordance with this section upon review and approval of a revised operation plan by the budget office.

23-5-1027. (Effective July 1, 1990) Disposition of revenue. (1) A minimum of 45% of the money paid for tickets or chances must be paid out as prize money. The prize money is statutorily appropriated, as provided in 17-7-502, to the lottery.

(2) Commissions paid to lottery ticket or chance sales agents are not a state lottery operating expense.

(3) That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise fund, is net revenue and must be paid quarterly from the enterprise fund established by 23-5-1026 to the superintendent of public instruction for distribution as state equalization aid to the public schools of Montana as provided in 20-9-343. The net revenue is statutorily appropriated, as provided in 17-7-502, to the superintendent of public instruction.

(4) The spending authority of the lottery may be increased in accordance with this section upon review and approval of a revised operation plan by the budget office.

23-5-1028. Annual audit. The legislative auditor shall conduct or have conducted an annual audit of the state lottery. The costs of the audit must be paid out of the state lottery fund. A copy of the audit report must be delivered to the commission, the director, the governor, the president of the senate, the speaker of the house of representatives, and each member of the appropriate committee of each house of the legislature as determined by the president of the senate and the speaker of the house.

23-5-1029. Audit of lottery security. (1) After the first 9 months of sales to the public and every 2 years after that, the office of the legislative auditor shall conduct or have conducted a comprehensive audit of all aspects of security in the operation of the lottery. The costs of the audit are a state lottery operating expense and must be paid out of the state lottery fund. The audit must include:

- (a) personnel security;
- (b) lottery sales agent security;
- (c) lottery contractor security;
- (d) security of manufacturing operations of lottery contractors;

(e) security against ticket or chance counterfeiting and alteration and other means of fraudulently winning;  
(f) security of drawings among entries or finalists;  
(g) computer security;  
(h) data communications security;  
(i) database security;  
(j) systems security;  
(k) lottery premises and warehouse security;  
(l) security in distribution;  
(m) security involving validation and payment procedures;  
(n) security involving unclaimed prizes;  
(o) security aspects applicable to each particular lottery game;

(p) security of drawings in games whenever winners are determined by drawings;

(q) the completeness of security against locating winners in lottery games with preprinted winners by persons involved in their production, storage, distribution, administration, or sales; and

(r) any other aspects of security applicable to any particular lottery game and to the lottery and its operations.

(2) The security audit report must be presented to the commission, the director, the governor, the president of the senate, and the speaker of the house of representatives.

23-5-1030. Certain audit findings confidential. Specific audit findings relating to security invasion techniques are confidential and may be reported only to the legislative audit committee, the director of the lottery, the commission, the attorney general, and the governor.

23-5-1031 through 23-5-1035 reserved.

23-5-1036. Penalties. It is a misdemeanor, punishable by a fine not to exceed \$500 or imprisonment in the county jail for a term not to exceed 6 months, or both, to knowingly or purposely:

(1) require an employee to sell lottery tickets or chances in violation of 23-5-1016(9);

(2) violate 23-5-1016(11);

(3) sell a lottery ticket or chance to a person under 18 years of age;

(4) violate subsection (3) or (4) of 23-5-1017;

(5) serve as a commissioner, director, assistant director, employee, or licensed agent of the state lottery in violation of 23-5-1019;

(6) violate 23-5-1020;

(7) violate 23-5-1021; or

(8) influence the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials.

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

*New Regs -  
MONTANA*

In the matter of the ) NOTICE OF EMERGENCY AMEND-  
emergency amendment of ) MENT OF RULES 8.124.102,  
Rules 8.124.102, 8.124.201, ) 8.124.201, and 8.124.202,  
and 8.124.202, video ) VIDEO GAMBLING MACHINE  
gambling machine rules ) RULES

To: All Interested Persons.

1. On October 1, 1989, ch. 432, L. 1989 becomes effective. The Legislature considered that bill necessary to protect the welfare of the citizens of Montana (§ 1(e)). The bill requires extensive revision of video gambling machine specifications (§ 49). Those rules, 8.124.101 through 8.124.229, ARM, are currently administrative rules of the department of commerce, to which the department of justice has succeeded, pursuant to section 8-15-133, MCA. The Department has recently discovered that the time consumed by prior steps necessary to the implementation of this act have not left sufficient time to follow the standard rulemaking procedure and have the vital video gambling machine rules in place by October 1, 1989. Therefore, the Department intends to amend the following rules without public hearing (the Department has had informal consultations with representatives of both the gambling industry and law enforcement) as of the date of this publication. The rules as amended will be made available to all those affected thereby, and were discussed by the Gaming Advisory Council at its first meeting on August 31, 1989.

2. A standard rulemaking procedure will be undertaken with a full public hearing prior to the expiration of these emergency rules.

3. Rule 8.124.102, ARM, is amended to include the following definition:

"Audit copy" means the exact copy of all printing created by the printing mechanism in a video gambling machine. This copy is to be retained in the machine until removed by the operator. The audit copy will record the electronic meter readings, accounting summaries, valid ticket vouchers, and any other record created by this mechanism.

The balance of the rule is unchar

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-621, MCA.

4. Rule 8.124.201, ARM, is amended as follows:

8.124.201 GENERAL SPECIFICATIONS OF VIDEO GAMING GAMBLING MACHINES (1) Detailed specifications for video gaming machines are required by the department in 23-5-615 Title 23, chapter 5, MCA. Such specifications are required to ensure the legal operation and integrity of each machine and provide the department with methods to monitor the machines.

(2) Each video gambling machine model must:

(a) be inspected in the state for approval and licensure by the department. The department may inspect any machine sold or operated in the state. Any approval granted by the department to a person is not transferable. The department must be allowed immediate access to each machine. Keys to allow access to a machine for purposes of inspection may be provided to the department or must be immediately available at the premise.

(b) be operated by the players in the manner specified by this part.

(c) not have any switches, jumpers, wire posts, or other means of manipulation that could affect the operation or outcome of a game. The machine may not have any functions or parameters adjustable by and through any separate video display or input codes except for the adjustment of features that are wholly cosmetic. This is to include devices known as "knockoff switches."

(d) Offer only those games defined as video gambling in Title 23, chapter 5, MCA, and operate in the following manner:

(i) The number of cards must be generated by use of a random number generator and frozen prior to the start of each game.

(ii) In the case of poker, after the first five cards have been dealt, the player may be allowed to raise his wager up to the amount of his initial ante, but the player may not exceed the overall statutory bet limit.

(iii) The game must display the combinations for which credits will be awarded and the number of credits awarded for each combination.

(iv) One credit may not exceed twenty-five cents in value.

(v) The machine must have locked doors to two separate areas, one containing the logic board and software for the game and the other housing the cash. Game EPROMS contained on the logic board must be readily accessible from the front of the machine. Access from one area to another must not be allowed.

(vi) (A) The machines may have two mechanisms that accept coins, hereinafter referred to as "mechanism 1" and "mechanism 2." These mechanisms must have devices referred to as "lockouts" which prohibit the machine from accepting coins during periods when the machine is inoperable.

(B) The machine may have a machine manufacturer mechanism that accepts cash in the form of bills that do not exceed \$5.

(vii) In the case of poker each machine must use a color display with images of cards that closely resemble the standard poker playing cards.

(viii) The machine must be capable of printing a ticket voucher for all credits owed the player at the completion of each game. A valid ticket must contain the following in a format prescribed by the department:

(A) the name of the licensed establishment;

(B) the name of the city, town, or county in which the licensed establishment is located;

(C) the machine serial number;  
(D) The time of day in hours and minutes in a 24-hour format;

(E) the current date;

(F) the program name and revision;

(G) the value of the prize in numbers;

(H) the value of the prize in words;

(I) the sequential number of the ticket voucher;

(ix) The printing mechanism must be located in a locked area of the machine to insure the safekeeping of the audit copy. The logic board shall be mounted within the logic area so it is not visible upon opening the logic area door. The printing mechanism must have a paper sensing device that upon sensing a "low paper" condition will allow the machine to finish printing the ticket and prevent further play. The machine must recognize a printer power loss occurrence and cease play until power has been restored to the printer and the machine is capable of producing a valid ticket.

(x) The machine must have nonresettable mechanical meters housed in a readily accessible locked machine area. These meters must be in a configuration prescribed by the department. The mechanical meters must be manufactured in such a way as to prevent access to the internal parts without destroying the meter. Meters must be hardwired (no quick connects will be allowed in the meter wiring system). The department may require and provide a validating identification sticker to attach to the mechanical meters to verify the meters are assigned to a specific licensed machine. The meters must keep a permanent record of:

(A) total credits accepted by the coin acceptor mechanism(s), and bill acceptor (if applicable);

(B) total credits played;

(C) total credits won;

(D) total credits paid;

(xi) The machine must contain electronic metering, using meters that record and display the following on the video screen in a format prescribed by the department:

(A) total credits in mechanism(s) 1 and 2 (if applicable).

(B) total credits through the bill acceptor (if applicable);

(C) total credits, total credits played, total credits won, and total credits paid;

(D) in the case of poker, total hands of poker played and total hands of poker won; total winning hands, consisting of a pair, two pair, three of a kind, a straight, a flush, a full house, four of a kind, a straight flush,, and five of a kind (if applicable);

(E) in the case of keno, total games of keno played and total games of keno won;

(F) in the case of bingo, total games of bingo played and the total games of bingo won.

(vii) The machine must issue by activation of an external key switch, an accounting ticket containing a performance synopsis of the machine. The printing of all totals from the electronic meters shall occur automatically by means of a switch attached to the door or the lock for that door each time access occurs to either the logic compartment or any compartment where cash is collected. Each machine must produce a full accounting ticket whenever electronic meters are reset. The ticket must be in the format prescribed by the department and contain:

- (A) the name of the licensed establishment;
- (B) the name of city, town, or county in which the licensed establishment is located;
- (C) the serial number of the machine;
- (D) the time of day, in hours and minutes in a 24-hour format;
- (E) the current date;
- (F) the program name and revision number; and
- (G) the electronic meter readings required by the department.

(xiii) The machine must have an identification tag permanently affixed to the machine by the manufacturer. The tag must be on the right-hand side, upper left corner of the machine and must include the following information:

- (A) manufacturer;
- (B) serial number;
- (C) model;
- (D) date of manufacture; and
- (E) any other information required by the department.
- (F) The face of the machine must be clearly labeled so as to inform the public that no person under the age of 18 years is allowed to play.

(G) No machine may offer for play more than one pay table per program.

(H) Each machine must pass a static test that is determined by the department.

(I) The owner of a gambling machine that is capable of producing an audit ticket, must produce, in each machine owned an audit ticket at least every seven days.

(J) A machine shall be equipped with a surge protector that will feed all A.C. electrical current to the machine and a battery backup power supply capable of maintaining for a 30-day period the accuracy of all electronic meters, date, and time during power fluctuations and loss. The battery must be in a state of charge during normal operation of the machine. Manufacturers incorporating either the use of E2 proms or a lithium battery for memory retention will be considered to meet this requirement.

{2} (3) All hardware and software Any and all modifications made to a licensed an approved video gaming gambling machine must be submitted to the department for approval prior to installation.

~~(3)~~ (4) The department may suspend, or revoke a license, or revoke approval of a machine at any time when it finds that any machine or machine component does not comply with statutes and rules governing electronic video gaming gambling machines. The department may also suspend, or revoke the licenses, or revoke approval of other similar model machines or machine components in use in the state.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-621, MCA.

5. Rule 8.124.202, ARM, is amended as follows:

8.124.202 HARDWARE SAFETY SPECIFICATIONS A video gaming gambling machine must include the following hardware specifications:

(1) All electrical and mechanical parts and design principles shall follow acceptable industrial codes and standards in both design and manufacture.

(2) A video gaming gambling machine shall be designed to ensure that the player will not be subjected to any physical, electrical, or mechanical hazards.

The balance of the rule, subsections (3) through (20), is repealed.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-621, MCA.

6. A new rule is inserted in chapter 124, subchapter 2 as follows:

RULE 8.124.210 USE OF TEMPORARY REPLACEMENT OR LOANER MACHINES - PERMIT REQUIRED - REPORTING (1) The use of a temporary replacement or loaner machine is authorized only in cases where it is being used to replace a machine that has been removed from service for repair.

(2) Any operator placing a temporary replacement machine in service must notify the department on a form prescribed by the department.

(3) The temporary replacement machine must have an identification number issued by the department. The identification number must be issued in advance of the machine being placed into service, and must be issued to a holder of a manufacturer/distributor or an operator license. The identification number must be affixed to the machine.

(4) The operator is responsible for filing all quarterly tax reports for the temporary replacement machine.

(5) In no case may the number of machines authorized by the number of permits issued the operator be exceeded by the use of temporary replacement machines. A temporary replacement machine may not be used for more than ninety (90) days.

AUTH: Sec. 23-5-603(2), MCA. IMP: Sec. 23-5-603(2), MCA.

6. The rationale for the emergency amendments is set forth in the statement of reasons for emergency.

7. Interested persons are encouraged to submit their comments during the standard rulemaking process. If interested persons wish to personally notified of that rulemaking process, they should submit their names and addresses to the Gambling Control Division, Montana Department of Justice, 2687 Airport Road, Helena, Montana 59620.

By: \_\_\_\_\_  
MARC RACICOT  
Attorney General

Certified to the Secretary of State September \_\_\_\_, 1989.



(b) purchases or obtains from another person equipment of any kind for use in gambling activities and sells, leases, or otherwise furnishes this equipment to another person.

(7) "Manufacturer of illegal gambling devices" means a person who assembles from raw materials or subparts a completed or uncompleted piece of equipment intended for use as a gambling device which is not specifically authorized in Montana by statute or department rule.

(8) "Operator" means a person who operates or controls for use in public a gambling device or gambling enterprise.

(9) "Person" means both natural and artificial persons, and includes all partnerships, corporations, associations, clubs, fraternal orders, religious organizations, or charitable organizations.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-112, MCA.

#### RULE II APPLICATION FOR GAMBLING LICENSE - LICENSE FEE

(1) Every person working as a dealer, operator, manufacturer/distributor, or manufacturer of illegal gambling devices as defined by Title 23, chapter 5, MCA, and by these rules must have a valid license issued by the department.

(2) An application for a gambling license must be submitted to the department of justice, gambling control division, on forms prescribed by the department and described herein. The application is not complete unless it is signed and dated by the applicant and contains all information, statements, documentation, and fees required by the department.

(3) The application must contain a document authorizing the disclosure of confidential information which must be signed and dated by the applicant whose signature must be attested to before a notary public for the state of Montana.

(4) Any first year license fee required by Title 23, chapter 5, MCA, must accompany each application.

(5) Applicants for specific types of gambling licenses issued by the department must comply with any special requirements contained in rules applicable to those licenses.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-115(3), MCA.

#### RULE III INVESTIGATION OF APPLICANTS, FINGERPRINTS MAY BE REQUIRED

(1) An applicant for a gambling license must make full disclosure of all information required by the department, these rules, and Title 23, chapter 5, MCA.

(2) The department may, at its discretion, require additional information, documentation, or disclosure from an applicant for a gambling license. This information may include fingerprints.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-308, MCA.

RULE IV PROCESSING OF GAMBLING LICENSE APPLICATION

(1) Upon receipt of an application for a gambling license, the department must make a thorough investigation as to the qualifications of the applicant for licensure. If, upon conclusion of such investigation, the applicant appears qualified under the law, a license must be issued if all requirements of the law and these rules are fulfilled.

(2) The department may consider the same matters, conditions, and qualifications for renewal of a gambling license as for the original application.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-115(3), MCA.

RULE V GROUNDS FOR DENIAL OF GAMBLING LICENSE

(1) The department may deny initial issuance or renewal of a gambling license or, if issued, suspend or revoke such license when it can be demonstrated an applicant or holder of such license has:

(a) concealed, failed to disclose, or otherwise attempted to mislead the department with respect to any material fact contained in the application or investigation for a gambling license or license renewal application; or

(b) purposely or knowingly failed to comply with Title 23, chapter 5, MCA, or these rules; or

(c) been convicted of committing, conspiring, or attempting to commit any felony, gambling-related misdemeanor, or other crime which is contrary to the declared policy of the state of Montana with regard to gambling; or

(d) been placed and remains in actual or constructive custody of any federal, state, or local law enforcement authority or court for any felony, gambling-related misdemeanor, or other crime which is contrary to the declared policy of the state of Montana with regard to gambling; or

(e) purposely or knowingly possessed or permitted to remain in or upon any premise licensed for gambling activity any device designed for the purpose of cheating or manipulating the outcome of any gambling activity or gambling enterprise authorized by Title 23, chapter 5, MCA; or

(f) purposely or knowingly committed, attempted, or conspired to commit theft or embezzlement against a gambling licensee or gambling enterprise; or

(g) been convicted in any jurisdiction of any offense involving or relating to gambling; or

(h) been prohibited by a governmental authority from being present upon the premises of any gambling establishment or gambling enterprise or any establishment where pari-mutual wagering is conducted for any reason relating to improper gambling activities or any illegal act; or

(i) failed to cooperate with any legislative investigative committee or other officially constituted body acting on behalf of the United States or any state, county, or municipality which seeks to investigate crimes relating to gambling, corruption of public officials, or any organized criminal activities.

(2) A person whose gambling license application has been denied for other than technical defects in the application may not reapply for a license for a period of one year from the date of denial.

(3) A person whose gambling license has been revoked may not reapply for a license for a period of one year from the date of the revocation.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-115(3), MCA.

RULE VI RECOURSE IN CASES OF DENIAL OR NON-RENEWAL OF GAMBLING LICENSE - HEARING, JUDICIAL REVIEW (1) When the department denies an application for a gambling license or renewal of said license, the applicant may request a hearing. Upon the department's receipt of a written request, a hearing must be scheduled and conducted in accordance with the provisions of the Montana Administrative Procedure Act.

(2) Administrative hearings conducted by the department are subject to judicial review in accordance with the provisions of the Montana Administrative Procedure Act.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-115(3), MCA.

RULE VII RENEWAL OF GAMBLING LICENSE (1) Renewal of an existing gambling license must be accomplished by submitting a renewal application on forms prescribed by the department. A renewal application is not complete unless it is signed and dated by the applicant and contains all information, statements, and documentation required by the department.

(2) The renewal license fee required by Title 23, chapter 5, MCA, must accompany each renewal application.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-115(3), MCA.

RULE VIII INSPECTION OF LICENSED PREMISES, RECORDS, AND DEVICES (1) Any premises wherein any gambling-related activity which is licensed by the department is conducted, or any premises in any way connected physically or otherwise with a licensed gambling-related activity, shall at all times be open to inspection by the department or its authorized representatives. At any time during which a licensed gambling activity is being operated upon a premises, the commission, and any authorized representative of the commission, may enter upon the premises without advance notice and:

(a) Inspect any of the other records of the licensed operator, or of any member that directly participates in the management, operation or promotion of a licensed activity, or of any employee of the licensed operator.

(b) Inspect, including the dismantling of, all pieces of equipment or parts thereof, or devices of any nature, which are being used to conduct the licensed activity.

(c) In the case of a live bingo or keno game, make a count of all monies received during the operation of the

licensed activity located on the premises, inspect all receipts for income issued by the licensed operator, and inspect all receipts for prizes which have been awarded by the licensed operator.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-115(3), MCA.

RULE IX APPLICATION FOR DEALER LICENSE (1) The application for a dealer license must contain a temporary dealer license form which, when accompanied by a receipt for certified mail, will serve as a temporary dealer license pending the issuance of an annual dealer license.

(2) Applications for dealer licenses are available only at driver examination stations. At the time an application for a dealer license is obtained by an applicant, the applicant must appear in person and present photographic verification of his identity to an authorized representative of the driver services bureau. The authorized representative of the driver services bureau must:

(a) record the verified identity of the applicant on the temporary dealer license form portion of the application and sign and date said form;

(b) assign an identification number to the applicant and record this number in the proper locations on the application; and

(c) obtain a photograph of the applicant utilizing the assigned identification number in a manner which will identify the applicant for future issuance of an annual dealer license as described by these rules.

(3) The first year license fee required by Title 23, chapter 5, MCA, must accompany each application.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-308, MCA.

RULE X DEALER LICENSE (1) A dealer license issued by the department must be in the form of a laminated identification card and must contain the following information:

(a) on the front of the license:

(i) a photograph of the person to whom the license is issued;

(ii) the first name, middle initial, and last name of the person to whom the license is issued; and

(iii) the assigned license number and expiration date specific to the person to whom the license is issued.

(b) on the back of the license:

(i) the home address, height, weight, eye color, hair color, date of birth, sex, and social security number of the person to whom the license was issued.

(2) Every dealer license expires annually on the licensee's birthday, and in no case less than 12 months from the date of issuance.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-308, MCA.

RULE XI TEMPORARY DEALER LICENSE (1) A temporary dealer license obtained by an applicant pursuant to these rules is valid only when attached to a receipt for certified mail which has been postmarked by the United States Postal Service at the time the application for dealer license is sent to the department.

(2) The temporary dealer license expires at midnight on the 90th day following the date of the postmark displayed on the receipt for certified mail.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-308(5), MCA.

RULE XII PROCESSING OF DEALER LICENSE APPLICATION RENEWAL, OR REPLACEMENT (1) In every case in which application is made to the department for a dealer license, the department will, within ninety (90) days:

- (a) issue a dealer license to the applicant; or
- (b) deny a dealer license to the applicant.

(2) An application to renew a gambling license must be received by the department prior to the expiration date of the license. An application not postmarked by the date of expiration will result in expiration of the gambling license and will require the expired license holder to reapply for a new original license in the manner required by these rules.

(3) Replacement of a gambling license is accomplished by following the new license procedure and including a \$10 fee.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-308(5), MCA.

RULE XIII CONFISCATION OF TEMPORARY DEALER LICENSE

(1) A temporary dealer license may be immediately confiscated by authorized representatives of the department when the following conditions can be demonstrated:

(a) The holder of such license has been placed or remains in actual or constructive custody as a result of any felony or gambling-related misdemeanor and is awaiting trial on such criminal charges; or

(b) The holder of such license has not affixed the certified mail receipt to the license as required by these rules; or

(c) A certified mail receipt is affixed to such license but displays no postmark as required by these rules; or

(d) The license has expired; or

(e) The department has denied a dealer license to the holder of such a license; or

(f) The department has returned an incomplete dealer license application and the applicant has not acted with 15 days of mailing by the department to correct the deficiency.

(2) An applicant whose temporary dealer license has been confiscated under these rules may appeal the confiscation

through the provision of the Montana Administrative Procedures Act.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-308(5), MCA.

RULE XIV POSSESSION OF DEALER LICENSE (1) A temporary dealer license must be carried on the licensee's person while on duty in a gambling premise.

(2) Every person in possession of a dealer license must surrender such license to any peace officer of the state of Montana upon request for the purpose of inspecting said license and identifying the license.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-308(5), MCA.

RULE XV DEALER LICENSE SPECIFIC TO THE PERSON NAMED THEREON (1) A dealer license is specific to the person named on the face of the license and must not be displayed by anyone other than the licensee.

(2) A dealer license displayed by anyone except the licensee is subject to confiscation by federal, state, or local law enforcement office charged with the responsibility of investigating gambling activities.

(a) Any confiscated dealer license must be sent to the department along with a report detailing the circumstances of the seizure.

(b) Upon receipt of a confiscated dealer license and the accompanying report, the department must immediately begin an investigation into the circumstances for the purposes of determining whether a violation of Title 23, chapter 5, MCA, or these rules occurred.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-308(5), MCA.

RULE XVI DEFINITIONS As used throughout this subchapter, the following definitions apply:

(1) "Applicant" means a person who has applied for a operator license issued by the department under Title 23, chapter 5, MCA.

(2) "Department" means the department of justice unless otherwise specifically stated.

(3) "Provisional operator license" means a license issued provisionally by the department to make available to the public for play a gambling device or gambling enterprise.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-176 & 177, MCA.

RULE XVII APPLICATION FOR OPERATOR LICENSE (1) All applicants for operator licenses issued by the department must submit the following information:

(a) name(s), addresses, telephone numbers, and social security numbers; history of gambling licensure with any federal, state, or local agency; civil and criminal record; and

record of residence and employment of the business owners for the last 15 years.

(b) the applicant's most recent financial statements with the application form. Statements submitted to state and federal income tax agencies as part of the most recent tax returns are acceptable;

(c) the amounts and sources of all business financing, along with the terms of each loan agreement;

(d) the following ownership/management information, as applicable:

(i) if the business is a sole proprietorship, the above-cited information must be submitted on the proprietor; or

(ii) if the business is a partnership, the information must be submitted on each general and limited partner; or

(iii) if the business is a closely-held or subchapter s corporation, the information on each shareholder, and each officer and director if not the same; or

(iv) if the business is a publicly-traded corporation, the names of each shareholder owning 5 percent or more of the company stock and the corporate officers and board of directors; or

(v) if the applicant is a nonprofit corporation or association, the information must be submitted on the applicable managing body, i.e., board of directors or steering committee; or

(vi) if the owner(s) acquires the services of a gaming manager or management firm, the information must not only be submitted on the owner but the manager or firm as well; and

(e) the following information regarding employees and business associates:

(i) the full name and address of every person employed by the applicant in a gambling-related activity in Montana on a salary or commission basis;

(ii) every person who has any right to share in the profits of the gambling operation including assignees, landlords, or otherwise, to whom any interest or share of profits has been pledged as security for a debt or deposited as security for the performance of any act or to secure the performance of a contract of sale;

(iii) a list of those with options to purchase a share of the business.

(3) Operator licenses must be renewed annually by completing forms prescribed by the department.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-176 & 177, MCA.

RULE XVIII INVESTIGATION OF APPLICANTS, ADDITIONAL INFORMATION MAY BE REQUIRED (1) The department may require access to all of the applicant's financial records to evaluate statements and support documentation supplied with the background application form.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-176 & 177, MCA.

RULE XIX PROVISIONAL OPERATOR LICENSE (1) The department may issue to an applicant for an operator license a provisional license pending the results of the investigation of the applicant's suitability for licensure. A provisional license will be revoked upon a determination that the applicant does not qualify for licensure. Upon a final determination that the applicant does qualify for licensure the department will issue a final order removing the license from provisional status.

(2) A person granted a provisional operator license by the department must comply with all laws of the State of Montana and rules of the department.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-176 & 177, MCA.

RULE XX CHANGES IN OWNERSHIP REPORTING (1) With the exception of subsection (2) a new application for licensure must be submitted with each change in ownership.

(2) With regard to publicly traded corporations, changes are subject to the limitations contained in these rules.

(3) All new officers and directors must be reported to the department within 30 days of the date of change.

(4) As defined in Rule XVII, all new owners, officers, and directors are subject to the same background information requirements specified previously in this subsection. Applications are subject to license denial if the changes in ownership do not meet with department approval.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-176 & 177, MCA.

RULE XXI DEFINITIONS As used throughout this subchapter, the following definitions apply:

(1) "Ante" means the amount of money each player places into the pot before the first deal of each game.

(2) "Authority reference" means Official Poker Rulebook, copyright 1988, Las Vegas Hilton, except for sections E, F, and H and Scarnes' Encyclopedia of Card Games by John Scarne, pages 18-276. These books will be used by the department as the authority on how to play authorized card games. The sections of the books cited as authority will not apply where there is a conflict with state law or rule.

(3) "Banking game" means a game where there is a fund against which everyone has the right to bet, the bank taking all that is lost by the bettors and paying all that is won. The test of such a game is whether the banker pays winnings and suffers losses. The game is not a banking game where the players bet against each other and settle with each other. Games in which any portion of the games includes betting against a fund are considered banking games.

(4) "Blind bet" means the money a player places into the pot before looking at his or her cards.

(5) "To burn a card" means to discard a card from the top of the deck and place it face down on the table according to house rules.

(6) "Cap card" means a blank card placed on the bottom of the deck.

(7) "Card table" or "live card game table" means a table licensed by the department.

(8) "Cutting card" means a blank card inserted by a player at the point where the player wishes the dealer to make a cut.

(9) "Dead card or hand" means a card or hand ruled out of play and ineligible to win any part of the pot.

(10) "Fouled hand" means a hand that either has an improper number of cards or has come in contact with discards.

(11) "Operator" means an individual licensed to conduct public gambling pursuant to Title 23, chapter 5, MCA.

(12) "Player" means a natural person participating in a live card game specifically authorized in Title 23, chapter 5, MCA, and described by these rules.

(13) "Poker" means a card game played by at least two players who bet against each other and settle with each other and not against the house. Poker is dealt by one dealer on a card table. A player bets on the cards (hand) the player holds. There may be an initial ante round and/or blind bet by the players. After the players receive their starting cards, there are one or more betting rounds. After all the dealing of cards and betting has occurred for a pot and there are two or more players still in contention, there is a showdown based on a maximum of five cards. The object of the game is for a player to win the pot either by making a bet no other player is willing to match or by having the best hand as described in these rules.

(14) "Pot" means all the bets placed by the players collected together.

(15) "Rake" means a set fee or percentage of the pot assessed by an operator for providing the services of a dealer, table, and location for public play.

(16) "Showdown" means the hands shown by all players remaining in the game.

(17) "Table stakes" means the amount of chips or cash in front of the player prior to the beginning of a hand.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-311, MCA.

RULE XXII TYPES OF CARD GAMES AUTHORIZED The following card games are authorized by law and must be played only in the manner set out for that game in the applicable authority reference.

(1) General poker rules, practices, and the games of Texas Hold'em, Draw Poker, Omaha, Seven Card Stud, and their variations according to Office Poker Rulebook, Copyright 1988, Las Vegas Hilton, except for sections E, F, and H.

(2) Other poker variations, Bridge, Cribbage, Hearts, Panguingue, Pinochle, Pitch, Rummy, Solo, and Whist, according to Scarnes' Encyclopedia of Games by John Scarnes, page 18-276.

(3) Card games not specifically authorized herein are prohibited.

(4) The department may approve other proposed variations of card games authorized by Title 23, chapter 5, MCA. Persons submitting card games for approval must provide the following information to the department:

(a) A complete description of the play of game, including but not limited to, the ranking of cards, betting procedures, number of cards in the showdown, and role of the house in the game; and

(b) The history of game.

(5) The department may require an actual demonstration of any game submitted for approval.

(6) No variations other than those authorized by the department may be played prior to department approval.

(7) Each licensed operator may establish rules of conduct for the card players on its premises.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-311, MCA.

RULE XXIII RANKING OF POKER CARDS AND HANDS (1) The cards in poker are ranked ace, king, queen, jack, ten, nine, eight, seven, six, five, four, three, deuce. The ace is the highest ranked card in high poker and is ranked lower than a deuce in low poker.

(2) The hands in poker are ranked and defined as follows from highest to lowest:

(a) Five of a kind - four cards of the same rank and a wild card.

(b) Straight flush - five cards of the same suit in sequence. An ace high straight flush is a "royal flush."

(c) Four of a kind - four cards of the same rank.

(d) Full house - three cards of the same rank and two cards of any other rank.

(e) Flush - five cards of the same suit.

(f) Straight - five cards in sequence.

(g) Three of a kind - three cards of the same rank.

(h) Two pair - two cards of the same rank and two cards of any other rank.

(i) One pair - two cards of the same rank.

(j) Highest card - the highest ranking card in the hand of five unmatched cards.

(3) If two or more hands are tied in the ranking, the hand with the highest rank matched card or cards wins. Otherwise the tie must be broken by the rank of the unmatched cards in the hand.

(4) In the event hands are identical in all aspects except for the suit, players shall evenly divide the pot.

(5) Wild cards may be used in poker.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXIV POKER CARDS - PHYSICAL CHARACTERISTICS

(1) The cards used in the game of poker must be one complete standard deck of 52 cards plus joker(s).

(2) The design on the backs of each card in the deck must be identical and no card may contain any marking, symbol, or design that will enable a player to know the identity of any element printed on the face of the card or that will in any way differentiate the back of that card from any other card in the deck. The backs of the cards may contain a logo.

(3) No operator or dealer may use cards that are taped, defaced, bent, crimped, or deformed in any manner.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXV POKER CHIPS - VALUE AND PHYSICAL CHARACTERISTICS

(1) Each poker chip used must be either clearly and permanently impressed, engraved, or imprinted on one side with a specific value of the chip or colored so as to clearly denote the value of the chip. At the operator's discretion, the other side of the chip may have the operator's name represented by a related design, symbol, abbreviation, or other identification which would differentiate the operator's chips from those being used by every other operator.

(2) Each denomination of poker chip must have a different primary color from the other denominations of chips. Each operator may, at its discretion, utilize contrasting secondary colors for any inlays on each denomination of poker chip.

(3) The value and colors of the poker chips must be conspicuously posted within sight of the card table.

(4) Poker chips must be sold for cash only and no credit of any nature may be extended to a person purchasing chips.

(5) The operator must redeem on demand its own chips for cash at the value for which they were sold.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXVI WAGERS TO BE MADE WITH POKER CHIPS OR CASH ONLY All wagers must be made with poker chips or cash.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXVII PERSONS NOT TO BRING THEIR OWN CARDS OR POKER CHIPS No person may bring to the card table or introduce into a poker game any playing card or cards or any poker chip or chips other than those obtained from the operator.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXVIII PROCEDURE FOR ACCEPTING CASH AT THE POKER

TABLE Each dealer who receives currency from a player at a poker table for exchange for poker chips shall observe the following procedures and requirements:

(1) The currency must be spread on the top of the poker table by the dealer accepting it, in full view of the player who presented it.

(2) The amount of currency must be verbalized by the dealer accepting it.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXIX PLAYER RESTRICTIONS (1) There must be at least two players.

(2) No player in a poker game may play other than the player's own hand.

(3) A player shall only play one hand and the player shall make all decisions without advice from any person.

(4) No player may provide any information to any person regarding the player's live or folded hand. No person may provide any information to any other person regarding a player's live or folded hand.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXX USE OF DEVICE PROHIBITED It is unlawful for any player to use any device to assist in keeping track of the cards played.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXXI SPECIAL POLICIES Each operator may establish rules of conduct for the players and spectators on its licensed premise as long as the operator's rules do not conflict with state law or administrative rule.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXXII DEALER RESTRICTIONS Dealers shall have no financial interest, directly or indirectly, in the outcome of any game which they deal.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXXIII SHILLS The operator or dealer must identify house players, shills, employees, or other representatives of the operator at a player's request.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXXIV DECKS - SHUFFLE AND CUT OF THE CARDS (1) The operator must have two separate decks of cards available at each table. The color of the backs of the cards of the two

decks must be a different predominant color. Any player may request that the dealer change decks. If such a request is made, the dealer must switch the use of decks at the end of that hand.

(2) Immediately prior to commencement of play of each game, the dealer must, in front of the players, shuffle all cards so that they are randomly intermixed.

(3) The dealer must cut the cards. The dealer must restack the cards with the former bottom part of the deck on top. Then the dealer must place a cutting card or cap card on the bottom of the deck to conceal the last card.

(4) The dealer at least once per shift must count cards in the deck and sort them on the table to verify the deck is complete.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXXV ANTE, BLIND BET (1) A player may ante for each hand by placing a bet on the table in front of him or her before the first card of the game is dealt. Then, the dealer shall sweep the antes and place them in the pot. Once the first card has been dealt, the ante may not be altered.

(2) For a blind bet to be part of any game, it must be announced prior to beginning the deal. A blind bet may be used in addition to an ante.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XXXVI RAKE (1) The rake may be a percentage of the pot or a set fee established by the house and must be clearly posted.

(2) A rake must be pulled from the pot in an obvious manner following the completion of each betting round. The rake must be placed in a designated rake area and must remain in the designated rake area until the pot is awarded. After the pot is awarded, the rake must then be placed in a segregated area near the dealer.

(3) The designated rake area must be clearly visible to all players and must be on the table where it is near the dealer.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-312, MCA.

RULE XXXVII OPERATION OF THE GAMES (1) Play must always proceed in a clockwise direction, with each player's turn to act following the person on the player's immediate right.

(2) The operator may set a minimum buy-in for each game. The operator must announce the length of time a player may leave the game and still be considered part of the same playing session.

(3) The dealer must advise each new player of rules of the game being played prior to the ante.

(4) A player may not remove any of his or her chips from the table until the player quits the game. However, a player may use chips to pay for other goods or services in the premises.

(5) Players may only purchase additional chips between hands.

(6) Concealed chips may not be used in play for a game.

(7) Only poker chips and/or cash on the table (table stakes) at the start of a hand may be in play for that pot.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-311, MCA.

RULE XXXVIII FOULED HANDS (1) A player is responsible for taking reasonable steps to protect his/her hand by holding on to it or by placing one or more chips on it. A player who fails to take reasonable steps to protect his or her hand shall have no relief if that hand is "fouled" as defined in this subsection, or is accidentally taken in by the dealer. A fouled hand or a hand accidentally taken by the dealer is a "dead hand," as defined in this subsection.

(2) A protected hand may not be ruled fouled by accidental contact with discards unless it is impossible to completely reconstruct. A player who has a protected hand taken in by the dealer or fouled by discards through no fault of the player is entitled to be refunded from the pot all the chips the player put in the pot on that game. In disputed cases, the dealer's decision is final.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-311, MCA.

RULE XXXIX THE DEAL (1) Each card dealt must be the top card of the deck. The order of future ownership of cards that will be in play is not to be disturbed at any time during the deal of a game.

(2) When the dealer burns a card, it must be placed facedown on the table before dealing any round of cards. Burned cards must be kept separate from the discards throughout the hand.

(3) A player facing a bet who announces a fold shall have a dead hand.

(4) All pots must be awarded by the dealer only. When the dealer has awarded the pot and it has been taken in by that player without a claim made against it, the award stands. No player may make an agreement with any other player regarding the pot. Each game must be played to conclusion and the pot awarded to the actual winning player.

(5) The dealer may place a maximum time limit on players during which time a player must act on his or her hand. At the lapse of the time limit, if there has not been a bet to the player, the player must check; if there has been a bet to the player, the player's hand is dead. However, the dealer shall

provide a reasonable warning to the player prior to the application of this subsection.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XL BETTING (1) A player who unintentionally puts less chips into the pot than are needed to call a bet must either complete the call or withdraw his or her chips and fold.

(2) If an improper number of chips are bet by a player and the dealer puts the player's chips into the pot without making an immediate objection, it must be considered a bet by the player.

(3) A player must place his entire bet in front of the player at one time. Unless a player has failed to place the necessary amount of chips to call a bet or to signify a raise, the player may not place additional chips into the pot (no string bets).

(4) A player confronted by a bet larger than the player's table stakes may "call" with the amount of chips in front of the player ("all in" bet). The excess part of the bet is either returned to the bettor(s) or used to form a side pot with another player or players by matching the amount called.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XLI IMPROPER DEAL (1) A card improperly dealt faceup, flashed as it is dealt so a player might know its identity, a joker dealt when the joker is not being used in the game, or a downcard dealt off the table is considered an exposed card. A card exposed by a player is not an exposed card. An exposed card must be replaced.

(2) A misdeal shall cause all the cards to be returned to the dealer for a redeal.

AUTH: Sec. 23-5-115(2), MCA. IMP: Sec. 23-5-311, MCA.

RULE XLII POSTING OF RULES (1) At least the following rules must be posted in a clear, legible manner at each card table or in such a conspicuous location that the player at a card table can readily read such rules.

- (a) Games to be played.
- (b) Betting limits of the games.
- (c) Ante or blind bets (if any).
- (d) Number of raises.
- (e) Minimum buy-in.
- (f) \$300 pot limit.
- (g) Rake percentage or set fee.
- (h) Check and raise (yes or no).
- (i) Designated wild card(s).
- (j) No side bets (except in cases of all-in bets).
- (k) No credit, no passing chips.
- (l) Maximum number of players.

(m) Players must be 18 years old.

(n) Players may request that house players (shills) be identified.

(2) When the operator chooses to make a general house rule, that house rule shall be posted on the premises where it can be clearly seen by players in the card game to which it applies.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-313, MCA.

RULE XLIII PLAY OF SUCCESSIVE KENO GAMES (1) A player may play successive keno games by paying for the games in advance only if he or she remains on the licensed premises. A player requesting to play multiple and successive keno is limited to the number of successive games allowed by the house. All games must be paid for in advance and any and all prizes won must be personally claimed by the player after the last game paid for and before the next game begins. Failure to personally claim prizes won by the player after the multiple games played will result in forfeiture of any prizes won.

(2) Any licensee allowing play of successive keno games must clearly post the house limits as to the number of successive games allowed, the requirement for payment in advance for the number of games to be played, the requirement to remain on the licensed premises while the games are played, and the requirement to personally claim any prizes before leaving the premises.

(3) In no case may prizes won on previous games be automatically carried forward to extend play for games beyond the number indicated when the player paid the caller.

(4) Recordkeeping for the play of successive games must be in accordance with these rules.

RULE XLIV DEFINITIONS (1) "Master square" means that portion of the sports pool card divided into smaller squares or spaces representing the chances purchased by the participants.

(2) "Sports event" means a game, race, or athletic contest, not including elementary or high school contests.

(3) "Sports pool" means a gambling activity using a card with a master square with the names or initials of the participants in the pool written within each square or space. Consideration, in money, is paid for each square or space by the participant for the chance to win money or other item of value on any sports event wherein the contestants in such event are natural persons or animals.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-503, MCA.

RULE XLV SPORTS POOL CARD (1) The master square of the card must be divided into smaller squares arranged in horizontal rows and vertical columns.

(a) There may be no more than one sports event per master square.

(b) The numbers for each horizontal row and vertical column must be randomly assigned after all squares have been sold and prior to the beginning of the sports event.

(c) Each square or space must be represented by a number from both the horizontal row and vertical column.

(2) The card shall, in advance of any sale of any chance, clearly indicate:

(a) The name of the sports event covered by the card.

(b) The total number of chances that must be sold in order to fill in all the squares or spaces.

(c) The cost to the participant for each chance to participate in the sports pool.

(d) The total amount to be paid to each winner.

(e) The intervals that a pay-out will be made and the amount of each pay-out.

(f) The name of the person conducting the sports pool.

(g) The value of each individual prize and the total value of all prizes.

(3) After each prize is awarded, the names of the winners of each prize must be prominently displayed on each card.

(4) After the card is prominently and visibly displayed for the sale of a chance to play, it must not be removed from the premises conducting the sports pool for 30 days after the event.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-503, MCA.

RULE XLVI SALE OF CHANCES (1) The total cost of a chance to participate shall not exceed five dollars (\$5) per chance and must be paid in cash at time the square or chance is selected.

(2) If, at the time of the event, all chances on the sports pool card are not sold, the persons who have paid for a chance to play shall be entitled to a full refund or must be allowed to transfer the chance to another sports pool currently advertised on the same premise where they purchased the chance on the uncompleted sports pool. If a participant cannot be located for a refund or transfer of the chance to another sports pool card prior to the event, the full purchase price of the chances purchased shall be retained by the premise for refund to the participant.

(3) The sports pool shall not be conducted if any chance remains unsold at the time the sports event is commenced.

(4) The sports event must not be changed to another sports event in order to allow the sale of all available chances.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-503, MCA.

RULE XLVII PRIZES (1) The prizes awarded to the winner or winners of a sports pool may be cash or merchandise but must not exceed a total value of \$500.

(a) Where the prize awarded is merchandise, the purchase price paid for the item(s) of the merchandise prize is considered to be the value of the prize. Proof of the purchase price of the item(s) of the merchandise prize shall be retained for a period of 30 days from the event.

(b) Subject to subsection (2), if the value of the merchandise prize is less than the amount of money paid by all participants for the chance to participate, the person conducting the sports pool shall award the balance to the winner(s).

(2) A nonprofit organization may retain up to 50 percent of the value of a sports pool; however, the nonprofit organization must maintain and open to inspection upon reasonable demand records to verify that the retained portion of the sports pool is used to support charitable activities.

AUTH: Sec. 23-5-115(2), MCA.

IMP: Sec. 23-5-503, MCA.

4. The rationale for the emergency rules is set forth in the statement of reasons for emergency.

5. Interested persons are encouraged to submit their comments during the standard rulemaking process. If interested persons wish to be personally notified of that rulemaking process, they should submit their names and addresses to the Gambling Control Division, Montana Department of Justice, 2687 Airport Road, Helena, Montana 59620.

By: \_\_\_\_\_

MARC RACICOT

Attorney General

Certified to the Secretary of State September \_\_\_\_, 1989.

Sandra

12-11-89

spoke to Kathy Anderson & John Willemo, Montana  
Gaming Control Bureau

① \$100 maximum award poker vs. \$800 max. keno  
Is because keno involves 8 cards, so can  
potentially win \$100 per card. Bureau  
objected to this initially — as did many  
conservatives who felt it would make  
gaming too enticing — but there seem  
to be no problems with it yet. However,  
keno is growing in popularity.

Our draft contains \$100 for keno, since this was more conservative.

② Limit poker machines to 10

Because poker is the more popular game —  
this ensures no rampant growth.

Our draft contains maximum 10 poker, since this is more conservative.

③ Machine testing

This is  
intent  
of our  
draft.

Lab tests a prototype of each device, not each  
individual device. Once prototype approved,  
can sell as many as you can! Goal of  
investigative staff is to check every machine  
each year (wherever it's installed) to make  
sure it's just like the prototype.

④ Penalties

All gambling offenses are misdemeanors, with  
some exceptions:

machine tampering } Felonies (don't have classes in MT):  
cheating / fraud } ~ 10 yrs or \$50,000  
counterfeiting }  
i.e. artificially }  
license self }  
(civil)

23-5-155

23-5-136

Also administrative penalties — can order cease & desist,  
suspend/revoke license, etc. Penalty \$10 per violation.

Kathy Anderson, MT  
406-442-7325

1 SENATE BILL NO. 431  
 2 INTRODUCED BY GAGE, HARPER, B. BROWN, MAZUREK,  
 3 ADDY, STRIZICH, MERCER, CRIPPEN, HANNAH,  
 4 HARP, VAN VALKENBURG  
 5 BY REQUEST OF THE DEPARTMENT OF JUSTICE  
 6  
 7 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
 8 PUBLIC GAMBLING LAWS OF MONTANA; PROVIDING FOR LICENSURE AND  
 9 REGULATION OF GAMBLING ACTIVITIES BY THE DEPARTMENT OF  
 10 JUSTICE; ~~PROVIDING FOR--STATUTORY--APPROPRIATION;~~ PROVIDING  
 11 FOR AN APPROPRIATION AND A STATUTORY APPROPRIATION;  
 12 PROVIDING FOR A GAMING ADVISORY COUNCIL; AMENDING SECTIONS  
 13 ~~17-7-502;~~ 17-7-502, 23-5-101 THROUGH 23-5-104, 23-5-108,  
 14 23-5-123, 23-5-131, 23-5-135, 23-5-311 THROUGH 23-5-313,  
 15 23-5-321, 23-5-331, 23-5-412 THROUGH 23-5-414, 23-5-431,  
 16 23-5-503, 23-5-509, 23-5-602, 23-5-603, 23-5-607, 23-5-608,  
 17 23-5-610 THROUGH 23-5-613, 23-5-616, 23-5-625, 23-5-631,  
 18 23-5-1101, AND 23-5-1105, MCA; AND REPEALING SECTIONS  
 19 23-5-105 THROUGH 23-5-107, 23-5-109, 23-5-121, 23-5-122,  
 20 23-5-124 THROUGH 23-5-127, 23-5-132 THROUGH 23-5-134,  
 21 23-5-141 THROUGH 23-5-144, 23-5-201 THROUGH 23-5-211,  
 22 23-5-301 THROUGH 23-5-303, 23-5-314 THROUGH 23-5-316,  
 23 23-5-322, 23-5-323, 23-5-332, 23-5-401 THROUGH 23-5-403,  
 24 23-5-411, 23-5-415 THROUGH 23-5-418, 23-5-421 THROUGH  
 25 23-5-423, 23-5-504 THROUGH 23-5-508, 23-5-510, 23-5-511,

1 23-5-601, 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617,  
 2 23-5-618, 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103,  
 3 AND 23-5-1104, MCA; AND PROVIDING EFFECTIVE DATES."  
 4

5 STATEMENT OF INTENT

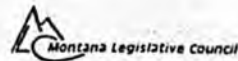
6 This bill requires a statement of intent because  
 7 [section 7] authorizes the department of justice to adopt  
 8 administrative rules to implement [this act]. [This act] is  
 9 intended to provide uniform statewide regulation of gambling  
 10 in Montana under the supervision of the attorney general.

11 It is the intent of the legislature that the department  
 12 of justice adopt necessary rules to implement uniform  
 13 statewide regulation of gambling in Montana consistent with  
 14 the purposes and policies set forth in [section 1] of this  
 15 bill.

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

18 NEW SECTION. Section 1. Public policy of state  
 19 concerning gambling. (1) The legislature finds that for the  
 20 purpose of ensuring the proper gambling environment in this  
 21 state it is necessary and desirable to adopt a public policy  
 22 regarding public gambling activities in Montana. The  
 23 legislature therefore declares it is necessary to:

24 (a) create and maintain a uniform regulatory climate  
 25 that assures players, owners, tourists, citizens, and others



1 that the gambling industry in this state is fair and is not  
2 influenced by corrupt persons, organizations, or practices;

3 (b) protect legal public gambling activities from  
4 unscrupulous players and vendors and detrimental influences;

5 (c) protect the public from unscrupulous proprietors  
6 and operators of gambling establishments, games, and  
7 devices;

8 (d) protect the state and local governments from those  
9 who would conduct illegal gambling activities that deprive  
10 those governments of their tax revenues;

11 (e) protect the health, safety, and welfare of all  
12 citizens of this state, including those who do not gamble,  
13 by regulating gambling activities; and

14 (f) promote ~~and~~ fund programs necessary to provide  
15 assistance to those who are adversely affected by legalized  
16 gambling, including compulsive gamblers and their families.

17 (2) The legislature adopts the policy that an  
18 applicant for a license or permit or other department  
19 approval under parts 1 through 6 of this chapter does not  
20 have a right to the issuance of a license or permit or the  
21 granting of the approval sought. The issuance of a license  
22 or permit issued or other department approval granted  
23 pursuant to the provisions of parts 1 through 6 of this  
24 chapter is a revocable privilege REVOCABLE ONLY FOR GOOD  
25 CAUSE. ~~A holder does not acquire a vested right in the~~

1 ~~license or permit issued or other department approval~~  
2 ~~granted: A HOLDER DOES NOT ACQUIRE A VESTED RIGHT IN THE~~  
3 ~~LICENSE OR PERMIT ISSUED OR OTHER DEPARTMENT APPROVAL~~  
4 ~~GRANTED.~~ A license or permit issued under parts 1 through 6  
5 of this chapter may not be sold, assigned, leased, or  
6 transferred.

7 (3) Revenue to fund the expense of administration and  
8 control of gambling as regulated by parts 1 through 6 of  
9 this chapter must be derived solely from fees, taxes, and  
10 penalties on gambling activities, except the gambling  
11 activities of the Montana state lottery and the parimutuel  
12 industry.

13 NEW SECTION. Section 2. General application. This  
14 chapter applies only to public gambling activities within  
15 the state of Montana.

16 Section 3. Section 23-5-101, MCA, is amended to read:  
17 "23-5-101. Definitions. Unless the context requires  
18 otherwise, the following definitions apply to parts 1  
19 through 6 of this chapter:

20 (1) ~~A slot machine is defined as a machine operated by~~  
21 ~~inserting a coin, token, chip, trade check, or paper~~  
22 ~~currency therein by the player and from the play of which he~~  
23 ~~obtains or may obtain money, checks, chips, tokens, or paper~~  
24 ~~currency redeemable in money; Merchandise vending machines~~  
25 ~~where the element of chance does not enter into their~~

1 operation--are--not--within--the--provisions--of--this--part-  
 2 "Applicant" means a person who has applied for a license or  
 3 permit issued by the department pursuant to parts 1 through  
 4 6 of this chapter.

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

9 (3) "Authorized equipment" means, with respect to live  
 10 keno or bingo, the--receptacle-and-numbered-objects-drawn  
 11 from-it,-the-master-board-upon-which-such-objects-are-placed  
 12 as-drawn,-the-cards--or--sheets--bearing--numbers--or--other  
 13 designations--to--be--covered--and-the-objects-used-to-cover  
 14 them,-the--boards--or--signs,-however--operated,-used--to  
 15 announce--or-display-the-numbers-or-designations-as-they-are  
 16 drawn,-public--address--system,-and--all--other--articles  
 17 essential--to--the--operation,-conduct,-and-playing-of-live  
 18 keno-or--bingo EQUIPMENT THAT MAY BE INSPECTED BY THE  
 19 DEPARTMENT AND THAT RANDOMLY SELECTS THE NUMBERS OR-SYMBOLS.

20 (4) "Bingo" means a game-of-chance GAMBLING ACTIVITY  
 21 played for prizes with a card bearing a printed design of 5  
 22 columns of 5 squares each, 25 squares in all. The letters  
 23 B-I-N-G-O must appear above the design, with each letter  
 24 above one of the columns. No more than 75 numbers OR-SYMBOLS  
 25 may be used. One number OR-SYMBOL must appear in each

1 square,-except-for-the-center-square-which-is--considered--a  
 2 free--play, EXCEPT FOR THE CENTER SQUARE, WHICH MAY BE  
 3 CONSIDERED A FREE PLAY. Numbers and-letters OR-SYMBOLS are  
 4 RANDOMLY drawn from--a-receptacle-and-announced-by-a-bingo  
 5 caller using authorized equipment,-and UNTIL the game is won  
 6 by the person OR PERSONS who first covers COVER a previously  
 7 designated arrangement of numbers OR-SYMBOLS on the bingo  
 8 card.

9 (5) "Bingo caller:" means a person licensed-by-the  
 10 department-to-work-as-a-live-bingo-caller 18 YEARS OF AGE OR  
 11 OLDER who, using authorized equipment, announces the order  
 12 of the objects NUMBERS OR-SYMBOLS drawn in live bingo.

13 (6) "Card game table" or "table" means a live card  
 14 game table authorized by permit and made available to the  
 15 public on the premises of a licensed gambling operator.

16 (7) "Dealer" means a person with a dealer's license  
 17 issued under part 3 of this chapter.

18 (8) "Department" means the department of justice.

19 (9) "Distributor" means a person who:

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

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

24 (10) "Gambling" or "gambling activity" means risking  
 25 money, credit, deposit, check, property, or any other thing

1 of value for a gain that is contingent in whole or in part  
 2 upon lot, chance, or the operation of a gambling device or  
 3 gambling enterprise.

4 (11) "Gambling device" means a mechanical,  
 5 electromechanical, or electronic device, machine, slot  
 6 machine, instrument, apparatus, contrivance, scheme, or  
 7 system USED OR INTENDED FOR USE IN ANY GAMBLING ACTIVITY.

8 (12) "Gambling enterprise" means an activity, scheme,  
 9 or agreement or an attempted activity, scheme, or agreement  
 10 to provide gambling or a gambling device to the public.

11 (13) "GROSS PROCEEDS" MEANS GROSS REVENUE RECEIVED LESS  
 12 PRIZES PAID OUT.

13 {13}(14) "Illegal gambling device" means a gambling  
 14 device not specifically authorized by statute or by the  
 15 rules of the department.

16 {14}(15) "Illegal gambling enterprise" means a gambling  
 17 enterprise that violates a statute or a rule of the  
 18 department.

19 {15}(16) "Keno" means a game of chance in which prizes  
 20 are awarded using a card with 8 horizontal rows and 10  
 21 columns on which a player may pick up to 10 numbers. A keno  
 22 caller, using authorized equipment, shall select at random  
 23 AT LEAST 20 numbers out of numbers between 1 and 80,  
 24 inclusive.

25 {16}(17) "Keno caller" means a person licensed--by--the

1 department--to-work-as-a-live-keno-caller 18 YEARS OF AGE OR  
 2 OLDER who, using authorized equipment, announces the order  
 3 of the numbers drawn in live keno.

4 {17}(18) "License" means an operator's, dealer's,  
 5 caller's or manufacturer-distributor's license issued to a  
 6 person by the department.

7 {18}(19) "Licensee" means a person who has received a  
 8 license from the department.

9 {19}(20) "Live card game" OR "card game"--or--"game"  
 10 means a card game that is played in public between persons  
 11 on the premises of a licensed gambling operator.

12 {20}(21) "Lottery" or "gift enterprise" means a scheme,  
 13 by whatever name known, for the disposal or distribution of  
 14 property by chance among persons who have paid or promised  
 15 to pay valuable consideration for the chance of obtaining  
 16 the property or a portion of it or for a share or interest  
 17 in the property upon an agreement, understanding, or  
 18 expectation that it is to be distributed or disposed of by  
 19 lot or chance. However, "gift enterprise" does not mean:

20 (a) lotteries authorized under part 10 of this  
 21 chapter; or

22 (b) cash or merchandise attendance prizes or premiums  
 23 that the county fair commissioners of agricultural fairs and  
 24 rodeo associations may give away at public drawings at fairs  
 25 and rodeos.

1 †21†(22) "Manufacturer" means a person who assembles  
 2 from raw materials or subparts a completed piece of  
 3 equipment or pieces of equipment of any kind to be used as a  
 4 gambling device.

5 †22†(23) "Operator" means a person who purchases,  
 6 receives, or acquires, by lease or otherwise, and operates  
 7 or controls for use in public, a gambling device or gambling  
 8 enterprise authorized under parts 1 through 6 of this  
 9 chapter.

10 †23†(24) "Permit" means approval from the department to  
 11 make available for public play a gambling device or gambling  
 12 enterprise approved by the department pursuant to parts 1  
 13 through 6 of this chapter.

14 †24†(25) In-addition-to-their-ordinary-meaning,--the  
 15 words--"person" "Person" or "persons"--as-used-in-this-part,  
 16 include means both natural and artificial persons and all  
 17 partnerships, corporations, associations, clubs, fraternal  
 18 orders, and societies, including religious,--fraternal, and  
 19 charitable organizations.

20 †25†(26) "Premises" means the physical building or  
 21 property within or upon which a licensed gambling activity  
 22 occurs, as stated on an operator's license application and  
 23 approved by the department.

24 †26†(27) "Public GAMBLING" means GAMBLING CONDUCTED IN:

25 (a) a place, building, or conveyance to which the

1 public has access or may be permitted to have access; or

2 (b) a place of public resort, including but not  
 3 limited to a facility owned, managed, or operated by a  
 4 partnership, corporation, association, club, fraternal  
 5 order, or society, including a religious,--fraternal, or  
 6 charitable organization.

7 †27†(28) "Raffle" means a gift enterprise in which each  
 8 participant buys a chance or chances to win a prize.

9 †28†(29) "Slot machine" means a mechanical, electrical,  
 10 electronic, or other gambling device, contrivance, or  
 11 machine that, upon insertion of a coin, currency, token,  
 12 credit card, or similar object or upon payment of any  
 13 valuable consideration, is available to play or operate, the  
 14 play or operation of which, whether by reason of the skill  
 15 of the operator or application of the element of chance, or  
 16 both, may deliver or entitle the person playing or operating  
 17 the gambling device to receive cash, premiums, merchandise,  
 18 tokens, or anything of value, whether the payoff is made  
 19 automatically from the machine or in any other manner. This  
 20 definition does not apply to video gambling machines  
 21 authorized under part 6 of this chapter.

22 †29†(30) "Video gambling machine" is a gambling device  
 23 specifically authorized by part 6 of this chapter and the  
 24 rules of the department."

25 NEW SECTION. Section 4. Authority of local

1 governments to regulate gambling. (1) A local government may  
 2 not license, OR regulate, ~~or otherwise limit~~ a form of  
 3 gambling authorized by parts 1 through 6 of this chapter OR  
 4 ASSESS OR CHARGE ANY FEES OR TAXES unless specifically  
 5 authorized by statute.

6 (2) An incorporated city or town may enact an  
 7 ordinance or resolution defining ZONING certain areas within  
 8 its incorporated limits in which gambling is prohibited.

9 (3) A county may enact a resolution defining ZONING  
 10 certain areas in the county, not within an incorporated city  
 11 or town, in which gambling is prohibited.

12 (4) A county or incorporated city or town may not  
 13 restrict the number of licenses that the department may  
 14 issue.

15 NEW SECTION. Section 5. Department as criminal  
 16 justice agency. The department is a criminal justice agency.  
 17 Designated agents of the department are granted peace  
 18 officer status, WITH THE POWER OF SEARCH, SEIZURE, AND  
 19 ARREST, to investigate, ~~regulate, and control all legal and~~  
 20 ~~illegal~~ gambling activities in this state regulated by parts  
 21 1 through 6 of this chapter and the rules of the department  
 22 AND TO REPORT VIOLATIONS TO THE COUNTY ATTORNEY OF THE  
 23 COUNTY IN WHICH THEY OCCUR.

24 NEW SECTION. Section 6. Department employees --  
 25 activities prohibited. An employee of the department, A

1 FORMER DEPARTMENT EMPLOYEE DURING THE FIRST 365 DAYS  
 2 FOLLOWING TERMINATION OF EMPLOYMENT, OR ANY OTHER PERSON  
 3 PEACE OFFICER OR PROSECUTOR directly involved with the  
 4 prosecution, investigation, regulation, or licensing of  
 5 gambling may not:

6 (1) serve as an officer or manager of a corporation or  
 7 organization, OTHER THAN A NONPROFIT CORPORATION  
 8 ORGANIZATION, that conducts a gambling activity;

9 (2) receive or share in, directly or indirectly, any  
 10 profit of a gambling activity regulated by the department;

11 (3) have a beneficial or pecuniary interest in a  
 12 contract for the manufacture, LEASE, or sale of a gambling  
 13 device, the conduct of a gambling activity, or the provision  
 14 of independent consultant services in connection with a  
 15 gambling activity.

16 NEW SECTION. Section 7. Powers and duties of  
 17 department -- licensing. (1) The department shall administer  
 18 the provisions of parts 1 through 6 of this chapter.

19 (2) The department shall adopt rules to administer and  
 20 implement parts 1 through 6 of this chapter.

21 (3) The department shall provide licensing procedures,  
 22 prescribe necessary application forms, and grant or deny  
 23 license applications.

24 (4) The department shall prescribe recordkeeping  
 25 requirements for licensees, provide a procedure for

1 inspection of records, provide a method for collection of  
2 taxes, and establish penalties for the delinquent reporting  
3 and payment of required taxes.

4 (5) The department may suspend, revoke, deny, or place  
5 a condition on a license issued under parts 1 through 6 of  
6 this chapter.

7 (6) The department may not make public or otherwise  
8 disclose information obtained in the APPLICATION OR tax  
9 reporting processes, except for general statistical  
10 reporting or studies.

11 (7) THE DEPARTMENT SHALL ASSESS, COLLECT, AND DISBURSE  
12 ANY FEES, TAXES, OR CHARGES AUTHORIZED UNDER PARTS 1 THROUGH  
13 6 OF THIS CHAPTER.

14 NEW SECTION. Section 8. Injunction and other  
15 remedies. (1) If it appears to the department that a person  
16 has engaged in or is about to engage in an act or practice  
17 constituting a violation of a provision of parts 1 through 6  
18 of this chapter or a rule or order of the department, it  
19 may:

20 (a) issue a temporary cease and desist order with  
21 reasonable notice and opportunity for hearing; Following a  
22 hearing or if the person to whom the notice is addressed  
23 does not request a hearing within 15 days after receipt of  
24 the notice, the department may issue a permanent cease and  
25 desist order that must remain in effect pending an appeal or

1 judicial review by the person aggrieved by a final order of  
2 the department;

3 (b) bring, without the issuance of a cease and desist  
4 order, an action in district court to enjoin the act or  
5 practice; On a proper showing, the court may grant a  
6 permanent or temporary injunction, a restraining order or  
7 other appropriate writ and appoint a receiver or conservator  
8 for the defendant or the defendant's assets; The department  
9 may not be required to post a bond;

10 (c) place a licensee on probation;

11 (d) suspend a license for a period not to exceed 180  
12 days;

13 (e) revoke a license;

14 (f) deny renewal of a license upon its expiration;

15 (g) impose a civil penalty not to exceed \$10,000 for  
16 each violation of a provision of parts 1 through 6 of this  
17 chapter or a rule of the department, whether or not the  
18 person is licensed by the department;

19 (h) impose a combination of the penalties provided in  
20 subsections (i) through (g);

21 (2) A fine imposed by a district court or by the  
22 department under this section must be collected by the  
23 department and deposited in the special revenue account as  
24 provided in 23-5-123;

25 (3) Imposition of a fine under this section is an

*penalties*

1 order from which an appeal may be taken pursuant to {section  
2 12}:

3 {4}--if a person fails to pay a fine imposed under this  
4 section, the fine is a lien on all of the assets and  
5 property of the person in the state and may be recovered by  
6 the department in a civil action:

7 {5}--if a person fails to pay a fine imposed under this  
8 section, he may not be licensed to operate a gambling device  
9 or gambling enterprise in the state under parts 1 through 6  
10 of this chapter. A PERSON HAS ENGAGED OR IS ENGAGING IN AN  
11 ACT OR PRACTICE CONSTITUTING A VIOLATION OF A PROVISION OF  
12 PARTS 1 THROUGH 6 OF THIS CHAPTER OR A RULE OR ORDER OF THE  
13 DEPARTMENT, THE DEPARTMENT MAY:

14 (A) ISSUE A TEMPORARY ORDER TO CEASE AND DESIST FROM  
15 THE GAMBLING ACTIVITY, ACT, OR PRACTICE FOR A PERIOD NOT TO  
16 EXCEED 60 DAYS; AND

17 (B) FOLLOWING NOTICE AND AN OPPORTUNITY FOR HEARING,  
18 AND WITH THE RIGHT OF JUDICIAL REVIEW, UNDER THE MONTANA  
19 ADMINISTRATIVE PROCEDURE ACT:

20 (I) ISSUE A PERMANENT ORDER TO CEASE AND DESIST FROM  
21 THE ACT OR PRACTICE, WHICH ORDER REMAINS IN EFFECT PENDING  
22 JUDICIAL REVIEW;

23 (II) PLACE A LICENSEE ON PROBATION;

24 (III) SUSPEND FOR A PERIOD NOT TO EXCEED 180 DAYS A  
25 LICENSE OR PERMIT FOR THE GAMBLING ACTIVITY, DEVICE, OR

1 ENTERPRISE INVOLVED IN THE ACT OR PRACTICE CONSTITUTING THE  
2 VIOLATION;

3 (IV) REVOKE A LICENSE OR PERMIT FOR THE GAMBLING  
4 ACTIVITY, DEVICE, OR ENTERPRISE INVOLVED IN THE ACT OR  
5 PRACTICE CONSTITUTING THE VIOLATION;

6 (V) IMPOSE A CIVIL PENALTY NOT TO EXCEED \$10,000 FOR  
7 EACH VIOLATION, WHETHER OR NOT THE PERSON IS LICENSED BY THE  
8 DEPARTMENT; AND

9 (VI) IMPOSE ANY COMBINATION OF THE PENALTIES CONTAINED  
10 IN THIS SUBSECTION (1)(B); AND

11 (C) BRING AN ACTION IN DISTRICT COURT FOR RELIEF  
12 AGAINST THE ACT OR PRACTICE. THE DEPARTMENT MAY NOT BE  
13 REQUIRED TO POST A BOND. ON PROPER SHOWING, THE COURT MAY:

14 (I) ISSUE A RESTRAINING ORDER, A TEMPORARY OR  
15 PERMANENT INJUNCTION, OR OTHER APPROPRIATE WRIT;

16 (II) SUSPEND OR REVOKE A LICENSE OR PERMIT; AND  
17 (III) APPOINT A RECEIVER OR CONSERVATOR FOR THE  
18 DEFENDANT OR THE ASSETS OF THE DEFENDANT.

19 (2) A CIVIL PENALTY IMPOSED UNDER THIS SECTION MUST BE  
20 COLLECTED BY THE DEPARTMENT AND DEPOSITED IN THE STATE'S  
21 GENERAL FUND AS REQUIRED BY 23-5-123. IF A PERSON FAILS TO  
22 PAY THE CIVIL PENALTY, THE AMOUNT DUE IS A LIEN ON THE  
23 PERSON'S LICENSED PREMISES AND GAMBLING DEVICES IN THE STATE  
24 AND MAY BE RECOVERED BY THE DEPARTMENT IN A CIVIL ACTION.

25 Section 9. Section 23-5-123, MCA, is amended to read:

1       "23-5-123. Disposal of money confiscated by reason of  
 2 violation of gambling laws. ~~All money seized or taken by any~~  
 3 ~~peace officer and confiscated by order of any court, by~~  
 4 ~~reason of a violation of the gambling laws of the state of~~  
 5 ~~Montana, shall be deposited with the county treasurer of the~~  
 6 ~~county in which such seizure and confiscation was made and~~  
 7 ~~shall be credited to the poor fund of the county. All fines,~~  
 8 ~~penalties, forfeitures, and confiscated money collected by~~  
 9 ~~criminal, civil, or administrative process for a violation~~  
 10 ~~of a provision of parts 1 through 6 of this chapter or a~~  
 11 ~~rule of the department must be deposited ONE-HALF in a~~  
 12 ~~special revenue account for use by the department for:~~  
 13       ~~(1) training law enforcement personnel in the~~  
 14 ~~investigation of illegal gambling activity;~~  
 15       ~~(2) training persons licensed under the authority of~~  
 16 ~~the department; or~~  
 17       ~~(3) funding programs designed to treat persons with~~  
 18 ~~habitual gambling problems THE STATE'S GENERAL FUND AND~~  
 19 ~~ONE-HALF IN THE GENERAL FUND OF THE COUNTY IN WHICH THE~~  
 20 ~~VIOLATION OCCURRED."~~

21       NEW SECTION. Section 10. Qualifications       for  
 22 licensure. (1) A person whom the department determines is  
 23 qualified to receive a license under the provisions of this  
 24 chapter, except for the provisions of part 10, may, BASED ON  
 25 INFORMATION AVAILABLE TO, REQUIRED BY, OR SUPPLIED TO THE

1       DEPARTMENT UNDER DEPARTMENT RULES, be issued a state  
 2 gambling license.

3       ~~(2) The applicant has the burden of proving his~~  
 4 ~~qualification to receive a license.~~

5       (2) THE DEPARTMENT SHALL ISSUE A LICENSE UNLESS THE  
 6 DEPARTMENT CAN DEMONSTRATE THAT THE APPLICANT IS:

7       (A) A PERSON WHOSE PRIOR ACTIVITIES OR CRIMINAL  
 8 RECORD:

9       (I) POSES A THREAT TO THE PUBLIC INTEREST OF THE STATE  
 10 OR THE EFFECTIVE REGULATION AND CONTROL OF GAMBLING; OR

11       (II) CREATES A DANGER OF ILLEGAL PRACTICES, METHODS, OR  
 12 ACTIVITIES IN THE CONDUCT OF GAMBLING OR IN THE CARRYING ON  
 13 OF THE BUSINESS AND FINANCIAL ARRANGEMENTS INCIDENTAL TO  
 14 GAMBLING; OR

15       (B) RECEIVING A SUBSTANTIAL AMOUNT OF FINANCING FOR  
 16 THE PROPOSED OPERATION FROM AN UNSUITABLE SOURCE. A LENDER  
 17 OR OTHER SOURCE OF MONEY OR CREDIT THAT THE DEPARTMENT FINDS  
 18 TO MEET THE PROVISIONS OF SUBSECTION (2)(A) MAY BE  
 19 CONSIDERED AN UNSUITABLE SOURCE.

20       ~~(3) An application for a license may not be granted~~  
 21 ~~unless the department is satisfied that the applicant is:~~

22       ~~(a) a person of good character, honesty, and~~  
 23 ~~integrity;~~

24       ~~(b) a person whose prior activities, criminal record,~~  
 25 ~~if any, reputation, habits, and associations do not:~~

1        (i) pose a threat to the public interest of the state  
 2 or to the effective regulation and control of gambling; or  
 3        (ii) create or enhance the dangers A-BANGER of illegal  
 4 practices, methods, and activities in the conduct of  
 5 gambling or in the carrying on of the business and financial  
 6 arrangements incidental to the conduct of gambling; and  
 7        (c) in all other respects qualified to be licensed  
 8 consistent with the declared gambling policy of the state;  
 9        (4) A license to operate a gambling activity may not  
 10 be issued unless the applicant has demonstrated to the  
 11 department that:

12        (a) the applicant has adequate business probity,  
 13 competence, and experience; and

14        (b) the proposed financing of the entire operation is:

15        (i) adequate for the nature of the proposed operation;  
 16 and

17        (ii) from a suitable source; A lender or other source  
 18 of money or credit that the department finds does not meet  
 19 the standards set forth in subsection (3) may be considered  
 20 unsuitable;

21        NEW SECTION. Section 11. Operator of gambling  
 22 establishment -- license -- fee. (1) It is a misdemeanor for  
 23 a person who is not licensed by the department as an  
 24 operator to make available to the public for play a gambling  
 25 device or gambling enterprise.

1        (2) An operator's license must include the following  
 2 information:

3        (a) a description of the premises upon which the  
 4 gambling will take place;

5        (b) the operator's name;

6        (c) a description of each gambling device or card game  
 7 table licensed to the operator by the department for play  
 8 upon the premises, including the type of game and license  
 9 number or decal number for each licensed game; and

10        (d) any other relevant information determined  
 11 necessary by the department.

12        (3) The operator's license must be issued annually  
 13 along with all other licenses for gambling devices or games  
 14 licensed to the operator.

15        (4) The operator's license must be updated each time a  
 16 gambling device or card game table license is newly issued  
 17 or the device or game is removed from the premises.

18        (5) The department may not charge a fee for the  
 19 issuance of an operator's license.

20        (6) The operator's license must be prominently  
 21 displayed upon the premises for which it is issued.

22        NEW SECTION. Section 12. Judicial review. (1) (a) A  
 23 person aggrieved by a final order of the department may  
 24 obtain a review of the order in district court by filing  
 25 with the court, within 30 days after entry of the final

1 order, a written petition requesting that the order be  
2 modified or set aside in whole or in part.

3 (b) A copy of the petition must be served upon the  
4 department at the same time. When the department receives  
5 the copy of the petition, it shall certify and file in court  
6 a copy of the filing, testimony, and other evidence upon  
7 which the final order was entered by the department. When  
8 these have been filed with the court, the court has  
9 exclusive jurisdiction to affirm, modify, enforce, or set  
10 aside the final order in whole or in part. A temporary cease  
11 and desist order from the department must MAY remain in  
12 effect ~~and cannot be set aside by the court~~ until a hearing  
13 has been held and a final order has been issued pursuant to  
14 [section 8].

15 (2) (a) The review must be conducted by the district  
16 court without a jury and must be confined to the record. In  
17 a case of alleged irregularity in procedure before the  
18 department not shown in the record, proof may be taken by  
19 the court. The court, upon request, shall hear oral argument  
20 and receive written briefs.

21 (b) The court may not substitute its judgment for that  
22 of the department as to the weight of the evidence on  
23 questions of fact. The court may affirm the decision of the  
24 department or remand the case for further proceedings. The  
25 court may reverse or modify the decision if substantial

1 rights of the appellant have been prejudiced because the  
2 administrative findings, inferences, conclusions, or  
3 decisions are:

4 (i) in violation of a constitutional or statutory  
5 provision;

6 (ii) in excess of the statutory authority of the  
7 department;

8 (iii) made upon unlawful procedure;

9 (iv) affected by other error of law;

10 (v) clearly erroneous in view of the reliable,  
11 probative, and substantial evidence on the whole record;

12 (vi) arbitrary or capricious or characterized by abuse  
13 of discretion or clearly unwarranted exercise of discretion;  
14 or

15 (vii) inadequate because findings of fact, upon issues  
16 essential to the decision, were requested but not made.

17 (3) The commencement of proceedings under this  
18 section, unless specifically ordered by the court, may not  
19 operate as a stay of the department's final order.

20 **Section 13.** Section 23-5-131, MCA, is amended to read:

21 "23-5-131. Losses at ILLEGAL gambling may be recovered  
22 in civil action. ~~if any person, by playing or betting at any~~  
23 ~~of the games prohibited by this part, loses to another~~  
24 ~~person any sum of money or thing of value and pays or~~  
25 ~~delivers the same or any part thereof to any person~~

1 connected with the operating or conducting of such game,  
 2 either as owner, dealer, or operator, the person who so  
 3 loses and pays or delivers may, at any time within 60 days  
 4 next after the loss and payment or delivery, sue for and  
 5 recover the money or thing of value so lost and paid or  
 6 delivered or any part thereof from any person having any  
 7 interest, direct or contingent, in the game as owner,  
 8 backer, or otherwise, with costs of suit, by civil action  
 9 before any court of competent jurisdiction, together with  
 10 exemplary damages which in no case shall be less than \$50 or  
 11 more than \$500, and may join as defendants in said suit all  
 12 persons having any interest, direct or contingent, in such  
 13 game as backers, owners, or otherwise. A person, or his  
 14 dependent or guardian, who, by playing or betting at an  
 15 illegal gambling device or illegal gambling enterprise,  
 16 loses money, property, or any other thing of value and pays  
 17 and delivers it to another person connected with the  
 18 operation or conduct of the illegal gambling device or  
 19 illegal gambling enterprise, within 1 year following his  
 20 loss, may:

21 (1) bring a civil action in a court of competent  
 22 jurisdiction to recover the loss;

23 (2) recover the costs of the civil action and  
 24 exemplary damages of no less than \$500 and no more than  
 25 \$5,000; and

1 (3) join as a defendant any person having an interest  
 2 in the illegal gambling device or illegal gambling  
 3 enterprise."

4 **Section 14.** Section 23-5-135, MCA, is amended to read:

5 "23-5-135. Discharge of defendant. Upon discovery and  
 6 repayment of the money or other thing, the person  
 7 discovering and repaying the same, with costs and such an  
 8 amount of exemplary damages as may be agreed upon by the  
 9 parties or fixed by the court, shall be acquitted and  
 10 discharged from any further or other forfeiture, punishment,  
 11 penalty, or prosecution he or they may have incurred for so  
 12 winning such money or thing discovered and repaid: (1) A  
 13 person against whom a civil action is brought as provided in  
 14 23-5-131 may move to have the action against him dismissed  
 15 if he has repaid to the person who suffered the loss or his  
 16 dependent the gambling loss, the costs of bringing the civil  
 17 action, and the exemplary damages agreed upon by the parties  
 18 or assessed by the court.

19 (2) A civil action brought to recover gambling losses  
 20 does not bar or interfere with another proceeding or action,  
 21 whether criminal, civil, or administrative, that may be  
 22 brought under the laws of the state.

23 ~~(3) The clerk of the court shall notify the department~~  
 24 ~~of a JUDGMENT IN A civil action based on a violation of a~~  
 25 ~~provision of this chapter."~~

1 **Section 15.** Section 23-5-102, MCA, is amended to read:

2 "23-5-102. Gambling prohibited ---penalty. Except as  
3 otherwise-provided-by-law;-a-person-who-engages-in-gambling  
4 in-any-form-with-cards;-dice;-or-other-inplements-or-devices  
5 of-any-kind-wherein-anything-valuable-may-be-wagered-upon  
6 the-outcome-or-who-keeps-any-establishment;-place;  
7 equipment;-or-apparatus-for-such-gambling-or-any-agents-or  
8 employees-for-such-purpose-is-guilty-of-a-misdemeanor-and-is  
9 punishable-by-a-fine-of-not-less-than-\$100-or-more-than  
10 \$1,000-or-imprisonment-not-less-than-3-months-or-more-than-1  
11 year-or-by-both-such-fine-and-imprisonment specifically  
12 authorized by statute, all forms of public gambling,  
13 lotteries, and gift enterprises are prohibited."

14 NEW SECTION. Section 16. Counterfeiting or defacing  
15 documents -- penalty. (1) A person commits the offense of  
16 counterfeiting or defacing a document when he purposely or  
17 knowingly counterfeits, alters, or wrongfully displays a  
18 seal, decal, license, identification number or device, or  
19 other document issued by the department.

20 (2) A person convicted of the offense of  
21 counterfeiting or defacing a document is guilty of a felony  
22 and must be punished in accordance with [section 24].

23 **Section 17.** Section 23-5-108, MCA, is amended to read:

24 "23-5-108. Soliciting or persuading persons to visit  
25 play illegal gambling resorts device prohibited. Any-person

1 who-persuades-or-solicits-another-to-visit-any-room;-tent;  
2 apartment;-or-place-used-or-represented-by-the-person  
3 soliciting-or-persuading-to-be-a-place-used-for-the-purpose  
4 of-running-any-of-the-games-prohibited-by-this-part-shall-be  
5 punished-by-a-fine-of-not-less-than-\$100-or-more-than-\$1,000  
6 or-imprisonment-not-less-than-3-months-or-more-than-1-year  
7 or-by-both-such-fine-and-imprisonment-in-the-county-jail. A  
8 person who advertises for or solicits another person to play  
9 or engage in the use of a illegal gambling device is guilty  
10 of a misdemeanor and is punishable under [section 23]."

11 NEW SECTION. Section 18. Obtaining anything of value  
12 by fraud or operation of illegal gambling device or  
13 enterprise. (1) A person who by gambling obtains money,  
14 property, or anything of value that does not exceed \$300 in  
15 value by misrepresentation, fraud, or the use of an illegal  
16 gambling device or an illegal gambling enterprise is guilty  
17 of a misdemeanor and is punishable as provided in [section  
18 23].

19 (2) A person who by gambling obtains money, property,  
20 or anything of value that exceeds \$300 in value by  
21 misrepresentation, fraud, or the use of an illegal gambling  
22 device or an illegal gambling enterprise is guilty of a  
23 felony and is punishable as provided in [section 24].

24 NEW SECTION. Section 19. Gambling on cash basis. (1)  
25 In every gambling activity, EXCEPT RAFFLES AS AUTHORIZED IN

1 ~~{SECTION 4}~~ 23-5-413, the consideration paid for the chance  
 2 to play must be cash. A participant shall present the money  
 3 needed to play the game as the game is being played. A  
 4 check, credit card, note, I O U, or other evidence of  
 5 indebtedness may not be offered or accepted as part of the  
 6 price of participation in the gambling activity or as  
 7 payment of a debt incurred in the gambling activity. THE  
 8 USE OF A CHECK OR CREDIT CARD TO PAY FOR OTHER GOODS OR  
 9 SERVICES IN THE ESTABLISHMENT OR TO OBTAIN CASH IS NOT A  
 10 VIOLATION OF THIS SECTION.

11 (2) A person who violates this section is guilty of a  
 12 misdemeanor and must be punished in accordance with [section  
 13 23].

14 NEW SECTION. Section 20. Minors not to participate --  
 15 penalty. (1) A PERSON MAY NOT PURPOSELY OR KNOWINGLY ALLOW A  
 16 person under 18 years of age may--not--be-permitted to  
 17 participate in a gambling activity.

18 (2) A person who violates this section is guilty of a  
 19 misdemeanor and must be punished in accordance with [section  
 20 23].

21 **Section 21.** Section 23-5-103, MCA, is amended to read:

22 "23-5-103. Possession of illegal gambling implements  
 23 device prohibited -- exception. Any (1) Except as provided  
 24 in {section-22} 23-5-104 and subsection (2) of this section,  
 25 it is a misdemeanor punishable under [section 23] for a

1 person who--has to PURPOSELY OR KNOWINGLY have in his  
 2 possession or under his control or who-permits to PURPOSELY  
 3 OR KNOWINGLY permit to be placed, maintained, or kept in any  
 4 room, space, enclosure, or building owned, leased, or  
 5 occupied by him or under his management or control any--faro  
 6 box,--faro--layout,--roulette--wheel,--roulette--table,--crap  
 7 table,--punchboard,--or-any-machine-or-apparatus-of-the-kind  
 8 mentioned-in-23-5-102-is-punishable-by-a-fine--of--not--less  
 9 than--\$100-or-more-than-\$1,000-and-may-be-imprisoned-for-not  
 10 less-than-3-months-or-more-than-1-year-in-the-discretion--of  
 11 the--court,--provided-that-this-section-shall-not an illegal  
 12 gambling device. This section does not apply to a public  
 13 officer or to a person coming into possession thereof of an  
 14 illegal gambling device in or by reason of the performance  
 15 of an official duty and holding the-same it to be disposed  
 16 of according to law.

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

21 (b) A person may not manufacture or possess an illegal  
 22 gambling device for export from the state without having  
 23 obtained a license from the department. The department may  
 24 charge an administrative fee for the license that is  
 25 commensurate with the cost of issuing the license."

1 Section 22. Section 23-5-104, MCA, is amended to read:

2 "23-5-104. Slot-machines-----possession-unlawful----  
3 exception Possession of antique slot machines. (1) Except-as  
4 provided--in--subsections--(2)--through--(5);--it-shall-be-a  
5 misdemeanor-and-punishable-as-hereinafter-provided--for--any  
6 person--to--use; possess; operate; keep; or-maintain-for-use  
7 or-operation-or-otherwise;--anywhere--within--the--state--of  
8 Montana; any-slot-machine-of-any-sort-or-kind-whatsoever;

9 (2)--The--provisions--of-subsection-(1)-and-23-5-121-do  
10 not-apply-to-antique-slot-machines-possessed;--located;--and  
11 used-in-accordance-with-subsections-(2)-through-(5);--For-the  
12 purposes--of--subsections--(2)--through--(5);--an-antique-slot  
13 machine-is-a-slot-machine-manufactured-prior--to--1950;--the  
14 operation--of--which-is-exclusively-mechanical-in-nature-and  
15 is-not-aided-in-whole-or-in-part-by-any-electronic-means: An  
16 antique-slot-machine-is-a-slot-machine-manufactured-prior-to  
17 1950-that-is-operated-exclusively-by-mechanical-means-and-is  
18 not-aided-in-whole-or-in-part-by-any-electrical--means; FOR  
19 THE PURPOSES OF THIS SECTION, AN ANTIQUE SLOT MACHINE IS A  
20 SLOT MACHINE MANUFACTURED PRIOR TO 1950, THE OPERATION OF  
21 WHICH IS EXCLUSIVELY MECHANICAL IN NATURE AND IS NOT AIDED  
22 IN WHOLE OR IN PART BY ANY ELECTRONIC MEANS.

23 (3)(2) Except as provided in subsection (4) (3), an  
24 antique slot machines machine may be possessed, located, and  
25 operated only in a private residential dwelling.

1 (4)(3) Antique--slot--machines An antique slot machine  
2 may be possessed or located for purposes of display only and  
3 not for operation in any public museum owned and operated by  
4 the state of Montana, or a county, or a city. A LICENSED  
5 MANUFACTURER-DISTRIBUTOR MAY POSSESS AND SELL ANTIQUE SLOT  
6 MACHINES.

7 (5)(4) No antique slot machine may be operated for any  
8 commercial or charitable purpose."

9 NEW SECTION. Section 23. Criminal liabilities --  
10 misdemeanor. A person who purposely or knowingly violates a  
11 provision of parts 1 through 6 of this chapter, the  
12 punishment of which is for a misdemeanor, must; upon  
13 conviction; OF A FIRST OFFENSE be fined not less MORE than  
14 \$500 or-more-than-\$5,000; or-imprisoned-for-not-more-than-1  
15 year; or-both; for-each-violation. UPON A SECOND CONVICTION  
16 WITHIN 5 YEARS OF A FIRST CONVICTION, A PERSON MUST BE FINED  
17 NOT MORE THAN \$1,000 OR IMPRISONED IN THE COUNTY JAIL FOR  
18 NOT MORE THAN 6 MONTHS, OR BOTH. UPON A THIRD CONVICTION  
19 WITHIN 5 YEARS OF A SECOND CONVICTION, A PERSON MUST BE  
20 FINED NOT MORE THAN \$10,000 OR IMPRISONED IN THE COUNTY JAIL  
21 FOR NOT MORE THAN 1 YEAR, OR BOTH. UPON A FOURTH CONVICTION  
22 WITHIN 5 YEARS OF A THIRD CONVICTION, A PERSON MUST BE FINED  
23 NOT MORE THAN \$10,000 OR IMPRISONED IN THE COUNTY JAIL FOR  
24 NOT MORE THAN 1 YEAR, OR BOTH, AND THE DEPARTMENT SHALL  
25 REVOKE ALL LICENSES AND PERMITS THE PERSON HOLDS UNDER PARTS

1 1 THROUGH 6 OF THIS CHAPTER AND THE PERSON IS FOREVER BARRED  
 2 FROM RECEIPT OF ANY LICENSE OR PERMIT UNDER THIS CHAPTER.  
 3 WHEN 5 YEARS HAVE PASSED FOLLOWING A CONVICTION, THE RECORD  
 4 OF THAT CONVICTION MAY BE MADE AVAILABLE ONLY TO CRIMINAL  
 5 JUSTICE AGENCIES OR UPON COURT ORDER.

6 NEW SECTION. Section 24. Criminal liabilities --  
 7 felony. A person who purposely or knowingly violates a  
 8 provision of parts 1 through 6 of this chapter, the  
 9 punishment for which is a felony, may upon conviction be  
 10 fined not more than \$50,000 or imprisoned for not more than  
 11 10 years, or both, for each violation. However, if the  
 12 person previously has been convicted of a felony involving  
 13 a gambling device, gambling activity, or gambling  
 14 enterprise, he must be imprisoned for at least 2 years.

15 NEW SECTION. Section 25. Prosecution. The county  
 16 attorney of the county in which a violation of a provision  
 17 of parts 1 through 6 of this chapter occurs shall prosecute  
 18 all gambling actions within the jurisdiction of the  
 19 department. However, if the county attorney declines  
 20 prosecution or fails to commence an action within a  
 21 reasonable time, the attorney general may initiate and  
 22 conduct the prosecution on behalf of the state.

23 Section 26. Section 23-5-311, MCA, is amended to read:  
 24 "23-5-311. Authorized card games. (1) It is unlawful  
 25 for any person to conduct or participate in any card game or

1 make any tables available for the playing of card games  
 2 except those card games authorized by this part:

3 (1) The card games authorized by this part are and  
 4 are limited to the card games known as bridge, cribbage,  
 5 hearts, panguingue, pinochle, pitch, poker {NEBUBING-JACKS  
 6 OR-BETTER}, rummy, solo, and whist, solo, and poker.

7 (2) A person may only conduct or participate in a live  
 8 card game or make a live card game table available for  
 9 public play of a live card game that ONLY IF IT IS  
 10 specifically authorized by this part and described by  
 11 department rules.

12 (3) This part does not apply to games simulated on  
 13 electronic video gambling machines authorized under part 6  
 14 of this chapter."

15 NEW SECTION. Section 27. Presence and control of  
 16 dealer. A live card game may not be played except on a live  
 17 card game table in the presence and under the control of a  
 18 licensed dealer on the premises of a licensed operator.

19 NEW SECTION. Section 28. Card game dealers --  
 20 license. (1) A person may not deal cards in a live card game  
 21 without being licensed annually by the department.

22 (2) The fee for each THE FIRST year in which the  
 23 license is effective must be commensurate with the  
 24 administrative costs associated with dealer licensing as  
 25 established by department rules IS \$75, AND THE ANNUAL

1 RENEWAL FEE IS \$25. The fee may not be prorated.

2 (3) The department shall retain for administrative  
3 purposes the license fee charged for the issuance of a  
4 dealer's license.

5 (4) A licensed dealer shall have on his person, and  
6 display upon request, his dealer's license when he is  
7 working as a dealer.

8 (5) The department may SHALL adopt rules to implement  
9 temporary licensing procedures until a permanent license is  
10 issued to a dealer. THE RULES MUST PROVIDE THAT A TEMPORARY  
11 LICENSE MAY BE OBTAINED AT THE PLACE WHERE A PERSON LOCALLY  
12 APPLIES FOR A DRIVER'S LICENSE AND THAT THE RECEIPT RECEIVED  
13 UPON MAILING AN APPLICATION FOR A PERMANENT LICENSE BY  
14 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ALSO CONSTITUTES A  
15 TEMPORARY LICENSE. The department may ~~delegate the authority~~  
16 ~~to issue temporary licenses to local governments including~~  
17 ~~the authority to~~ NOT assess and ~~retain~~ a fee for the  
18 temporary license.

19 NEW SECTION. Section 29. Live card game table --  
20 permit -- fees -- disposition of fees. (1) A person who has  
21 been granted an operator's license under [section 11] and a  
22 license under ~~16-4-401(2)~~ to sell alcoholic beverages for  
23 consumption on the premises ~~OR WHO OPERATES AN ESTABLISHMENT~~  
24 ~~FOR THE PRINCIPAL PURPOSE OF GAMING AND HAS BEEN GRANTED AN~~  
25 ~~OPERATOR'S LICENSE UNDER SECTION 11~~ may be granted an

1 annual permit for the placement of live card game tables.  
2 IF ONE OR MORE LIVE CARD GAME TABLES WERE LEGALLY OPERATED  
3 ON A PREMISES ON JANUARY 15, 1989, AND THE PREMISES WERE NOT  
4 ON THAT DATE LICENSED UNDER 16-4-401(2) BUT WERE LICENSED ON  
5 THAT DATE TO SELL FOOD, CIGARETTES, OR ANY OTHER CONSUMABLE  
6 PRODUCT, AN OPERATOR'S LICENSE AND AN ANNUAL PERMIT FOR THE  
7 PLACEMENT OF LIVE CARD GAME TABLES MAY BE GRANTED TO THE  
8 PERSON WHO LEGALLY OPERATED THE PREMISES ON JANUARY 15,  
9 1989.

10 (2) The annual permit fee in lieu of taxes for each  
11 live card game table operated in a licensed operator's  
12 premises may not be prorated and must be:

13 (a) \$250 for the first table; AND

14 (b) ~~\$750~~ \$500 for the ~~second table~~; and

15 ~~(\$1,000 for the third and each additional table.~~

16 (3) The department shall retain for administrative  
17 purposes \$100 of the fee collected under this part for each  
18 live card game table.

19 (4) The department shall forward on a quarterly basis  
20 the remaining balance of the fee collected under subsection  
21 (2) to the treasurer of the county, or the clerk, finance  
22 officer, or treasurer of the city or town in which the live  
23 card game table is located for deposit to the county or  
24 municipal treasury. A COUNTY IS NOT ENTITLED TO PROCEEDS  
25 FROM FEES ASSESSED ON LIVE CARD GAME TABLES LOCATED IN

1 INCORPORATED CITIES AND TOWNS WITHIN THE COUNTY. The local  
 2 government portion of this fee is statutorily appropriated  
 3 to the department as provided in 17-7-502 for deposit to the  
 4 county or municipal treasury. THE LOCAL GOVERNMENT PORTION  
 5 OF THIS FEE IS STATUTORILY APPROPRIATED TO THE DEPARTMENT,  
 6 AS PROVIDED IN 17-7-502, FOR DEPOSIT TO THE COUNTY OR  
 7 MUNICIPAL TREASURY.

8 **Section 30.** Section 23-5-321, MCA, is amended to read:

9 "23-5-321. Bicensing Issuance of permits by local  
 10 governing bodies prohibited. (1) Any A city, town, or county  
 11 may not issue licenses permits for the live card games  
 12 provided for or live card game tables authorized in this  
 13 part, to be conducted on premises which have been licensed  
 14 for the sale of liquor, beer, food, cigarettes, or any other  
 15 consumable products. Within the cities or towns, such  
 16 licenses may be issued by the city or town council or  
 17 commission; licenses for games conducted on premises outside  
 18 the limits of any city or town may be issued by the county  
 19 commissioners of the respective counties. When a license has  
 20 been required by any city, town, or county, no game as  
 21 provided for in this part shall be conducted on any premises  
 22 which have been licensed for the sale of liquor, beer, food,  
 23 cigarettes, or any other consumable product without such  
 24 license having first been obtained.

25 (2) Any governing body may charge an annual license

1 fee for each license so issued under this part, which  
 2 license fee, if any, shall expire on June 30 of each year,  
 3 and such fee shall be prorated.

4 (3) Any license issued pursuant to this part shall be  
 5 deemed to be a revocable privilege, and no holder thereof  
 6 may acquire any vested rights therein or thereunder."

7 **Section 31.** Section 23-5-312, MCA, is amended to read:

8 "23-5-312. Prizes not to exceed one three ONE THREE  
 9 hundred dollars. No prize for any individual game shall  
 10 exceed the value of \$100. A prize for an individual live  
 11 card game may not exceed the value of \$300 ~~\$100~~ \$300. Games  
 12 shall may not be combined in any manner so as to increase  
 13 the value of the ultimate prize awarded."

14 **NEW SECTION. Section 32.** Live card game tables --  
 15 hours of play -- restriction -- exception. Live card game  
 16 tables must be closed for play between the hours of 2 a.m.  
 17 and 8 a.m. each day. However, in the jurisdiction of a  
 18 local government where the table is located, the local  
 19 government may adopt an ordinance defining the hours of play  
 20 within that jurisdiction. HOWEVER, IN THE JURISDICTION OF A  
 21 LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL  
 22 GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2  
 23 A.M. AND 8 A.M.

24 **Section 33.** Section 23-5-313, MCA, is amended to read:

25 "23-5-313. Rules of play to be posted -- rake-off

1 approved. Rules governing the conduct of each game shall  
 2 must be prominently posted within the sight of the players  
 3 at a live card game table on the premises of any--licensed  
 4 establishment--where--such--game--is--conducted a licensed  
 5 operator. Such The rules shall must include notice of the  
 6 maximum percentage rake-off, if any, and shall must require  
 7 that the person taking the rake-off do so in an obvious  
 8 manner and--only--after--announcing--the--amount--of--each  
 9 rake-off, which shall only be taken--at--the--conclusion--of  
 10 each--game--when--the--winner--of--each--individual--pot--has--been  
 11 determined."

12 **Section 34.** Section 23-5-331, MCA, is amended to read:

13 "23-5-331. Penalty. Every A person who willfully  
 14 purposely or knowingly violates or who procures, aids, or  
 15 abets in the--willful a violation of this part or any  
 16 ordinance, resolution, or regulation rule adopted pursuant  
 17 thereto--shall--be--deemed to this part is guilty of a  
 18 misdemeanor and--upon--conviction--shall--be--punished--by--a--fine  
 19 of--not--more--than--\$17000--or--imprisonment--in--the--county--jail  
 20 for--not--more--than--3--months,--or--both punishable pursuant to  
 21 [section 23]."

22 **NEW SECTION. Section 35.** Authorized live bingo, keno,  
 23 and raffles. (1) A person may only conduct or participate in  
 24 a live bingo and keno game or raffle ONLY IF IT IS operated  
 25 pursuant to this part.

1 (2) This part does not apply to a game simulated on a  
 2 video gambling machine authorized by part 6 of this chapter.

3 **NEW SECTION. Section 36.** Exempt charitable  
 4 organizations. An organization qualified for exemption under  
 5 26 U.S.C. 501(c)(3) and (c)(4) ON JANUARY 15, 1989, is  
 6 exempt from the taxation and license fees imposed by this  
 7 part. AN ORGANIZATION QUALIFIED FOR EXEMPTION UNDER THAT  
 8 SECTION AFTER THAT DATE IS EXEMPT FROM TAXATION UNDER, AND  
 9 NEED ONLY PAY ONE-HALF THE LICENSE FEES UNDER, THIS PART IF  
 10 THE ORGANIZATION CARRIES ON GAMBLING ACTIVITIES FOR NO MORE  
 11 THAN 60 DAYS A CALENDAR YEAR AND IF THE ACTIVITIES ARE  
 12 LIMITED TO ITS MAIN PREMISES OR PLACE OF OPERATIONS AND TO  
 13 EVENTS AT OTHER PLACES OPERATED BY OTHER CHARITABLE  
 14 ORGANIZATIONS OR BY A GOVERNMENT UNIT OR ENTITY. The  
 15 organization shall comply with other statutes and rules  
 16 relating to the operation of live bingo and keno or raffles.  
 17 A qualified organization shall apply to the department for a  
 18 cost-free permit to conduct charitable live bingo and keno  
 19 games or raffles. THE DEPARTMENT MAY REVOKE OR SUSPEND THE  
 20 PERMIT OF A QUALIFIED ORGANIZATION THAT, AFTER  
 21 INVESTIGATION, THE DEPARTMENT DETERMINES IS CONTRACTING WITH  
 22 A NONQUALIFIED ORGANIZATION TO OPERATE LIVE BINGO, KENO, OR  
 23 RAFFLES IN A PREDOMINANTLY COMMERCIAL MANNER.

24 **NEW SECTION. Section 37.** Bingo and keno callers  
 25 qualifications--license--fee--(1)--A--person--may--not--act

1 as-a-bingo-or-keno-caller-without-being-licensed-annually-by  
2 the-department;

3 (2) The fee for each year in which the license is  
4 effective must be commensurate with the costs associated  
5 with bingo or keno caller licensing as established by  
6 department rules. The fee may not be prorated.

7 (3) The department shall retain for administrative  
8 purposes the license fee charged for the issuance of a bingo  
9 or keno caller's license.

10 (4) A bingo or keno caller shall have on his person,  
11 and display upon request, his bingo or keno caller's license  
12 whenever he is working as a bingo or keno caller.

13 (5) The department may adopt rules to implement  
14 temporary licensing procedures until a permanent license is  
15 issued. The department may delegate the authority to issue  
16 temporary licenses to local governments, including the  
17 authority to assess and retain a fee for a temporary  
18 license.

19 NEW SECTION. Section 37. Live bingo or keno permit --  
20 fees -- disposition of fees. (1) A person who has been  
21 granted an operator's license may be granted an annual  
22 permit by the department to conduct live bingo or keno games  
23 on specified premises.

24 (2) The permit fee for each of the premises in which a  
25 live bingo or keno game is conducted may not be prorated and

1 must be \$500.

2 (3) The department shall retain the permit fee for  
3 administrative costs.

4 NEW SECTION. Section 38. Bingo and keno gross  
5 proceeds tax -- records -- distribution -- quarterly  
6 statement and payment. (1) A licensee who has received a  
7 permit to operate bingo or keno games shall pay to the  
8 department a tax of 3% 5% of the gross proceeds NET INCOME  
9 from the operation of each live bingo and keno game operated  
10 on his premises. FOR PURPOSES OF THIS SECTION, "NET INCOME"  
11 MEANS GROSS PROCEEDS, AS DEFINED IN 21-5-101, MINUS THE COST  
12 OF EQUIPMENT, SUPPLIES, PERSONNEL, AND ADVERTISING ALLOCATED  
13 TO THE GAMES. IF IN ANY YEAR 5% OF NET INCOME DOES NOT EQUAL  
14 1% OF GROSS PROCEEDS, THEN THE LICENSEE SHALL PAY A TAX OF  
15 1% OF GROSS PROCEEDS.

16 (2) A licensee shall keep a record of gross proceeds  
17 AND NET INCOME in the form the department requires. At all  
18 times during the business hours of the licensee the records  
19 must be available for inspection by the department.

20 (3) A licensee shall, within 15 days after the end of  
21 each quarter, ANNUALLY complete and deliver to the  
22 department a statement showing the total gross proceeds AND  
23 NET INCOME for each live keno or bingo game operated by him  
24 and the total amount due as live bingo or keno gross  
25 proceeds tax for the preceding quarter YEAR. This statement

1 must contain any other relevant information required by the  
2 department.

3 (4) The department shall forward the tax collected  
4 under subsection (3) to the treasurer of the county or the  
5 clerk, finance officer, or treasurer of the city or town in  
6 which the licensed game is located for deposit to the county  
7 or municipal treasury. A county is not entitled to proceeds  
8 from taxes on live bingo or keno games located in  
9 unincorporated INCORPORATED cities and towns within the  
10 county. ~~The tax collected under subsection (3) is~~  
11 ~~statutorily appropriated to the department as provided in~~  
12 ~~17-7-502 for deposit to the county or municipal treasury.~~  
13 THE TAX COLLECTED UNDER SUBSECTION (3) IS STATUTORILY  
14 APPROPRIATED TO THE DEPARTMENT, AS PROVIDED IN 17-7-502, FOR  
15 DEPOSIT TO THE COUNTY OR MUNICIPAL TREASURY.

16 Section 39. Section 23-5-412, MCA, is amended to read:

17 "23-5-412. Bingo Card prices and prizes. The price for  
18 an individual bingo or keno card may not exceed 50 cents.  
19 Bingo prizes may be paid in either tangible personal  
20 property or cash, except that a prize must be paid in  
21 tangible personal property if the game is played on a  
22 player-operated electronic video game machine. A prize may  
23 not exceed the value of \$100 ~~9300~~ \$100 for each individual  
24 bingo award or keno card. The price for an individual bingo  
25 card may not exceed 50 cents. It shall be is unlawful to, in

1 any manner, combine any awards so as to increase the  
2 ultimate value of such the award. A PLAYER MAY GIVE THE  
3 CALLER A CARD WITH INSTRUCTIONS ON THE CARD TO PLAY THAT  
4 CARD AND ITS MARKED NUMBERS FOR UP TO THE NUMBER OF  
5 SUCCESSIVE GAMES THAT THE HOUSE ALLOWS AND THAT THE PLAYER  
6 HAS INDICATED ON THE CARD, UPON PAYMENT OF THE PRICE PER  
7 GAME TIMES THE NUMBER OF SUCCESSIVE GAMES INDICATED. THE  
8 PLAYER SHALL REMAIN ON THE HOUSE PREMISES UNTIL THE CARD IS  
9 PLAYED OR WITHDRAWN. THE CALLER SHALL KEEP THE CARD UNTIL  
10 THE END OF THE NUMBER OF GAMES INDICATED, AND THE DEPARTMENT  
11 MAY BY RULE PROVIDE THAT AT THAT TIME THE CALLER SHALL PAY  
12 THE PLAYER ANY PRIZES WON."

13 Section 40. Section 23-5-413, MCA, is amended to read:

14 "23-5-413. Raffle prizes restricted-----exemption --  
15 PERMITS -- EXCEPTION. (1) Raffle prizes must be in tangible  
16 personal property only and not in money, cash, stocks,  
17 bonds, evidences of indebtedness, or other intangible  
18 personal property and must not exceed the value of \$1,000  
19 for each individual raffle card ticket. It shall be is  
20 unlawful to, in any manner, combine any awards so as to  
21 increase the ultimate value of such award the prize awarded  
22 for each ticket.

23 (2) A separate permit must be issued by the board of  
24 county commissioners for each raffle conducted within its  
25 jurisdiction. The permit must be issued before the raffle

1 may be conducted. A person who has conducted a raffle must  
 2 submit an accounting to the board of county commissioners  
 3 within 30 days following the completion of the raffle. The  
 4 sale of raffle tickets authorized by this part is restricted  
 5 to events and participants within the geographic confines of  
 6 the state.

7 ~~{2}{3}~~ (a) The restrictions of subsection (1) do not  
 8 apply to a raffle conducted by a nonprofit corporation,  
 9 religious corporation sole, or other nonprofit organization  
 10 when if the corporation or organization is licensed  
 11 permitted by the board of county commissioners to conduct  
 12 the raffle. ~~A separate license shall be required for each~~  
 13 ~~raffle conducted.~~

14 (b) The nonprofit organization or corporation seeking  
 15 the license permission under subsection ~~{2}{3}~~(a) must shall  
 16 apply to the board of county commissioners for the license  
 17 permit and must provide the following information:

- 18 (i) the cost and number of raffle tickets to be sold;  
 19 (ii) the charitable purposes the proceeds of the raffle  
 20 are intended to benefit; and  
 21 (iii) the proposed prizes and their value.

22 (c) The proceeds from the sale of the raffle tickets  
 23 are to may be used only for charitable purposes or to pay  
 24 for prizes. The raffle prize must be in tangible personal  
 25 property only and not in money, cash, stock, bonds, evidence

1 of indebtedness, or other intangible personal property. None  
 2 of the proceeds may be used for the administrative cost of  
 3 conducting the raffle.

4 ~~{d}--The--corporation--or--organization--conducting--the~~  
 5 ~~raffle--must--submit--an--accounting--to--the--board--of--county~~  
 6 ~~commissioners--within--30--days--following--the--completion--of--the~~  
 7 ~~raffle;--The--person--or--persons--submitting--the--application--to~~  
 8 ~~the--board--of--county--commissioners--along--with--the--corporation~~  
 9 ~~or--organization--conducting--the--raffle--shall--be--responsible~~  
 10 ~~for--submitting--the--accounting--to--the--board--of--county~~  
 11 ~~commissioners."~~

12 **Section 41.** Section 23-5-414, MCA, is amended to read:  
 13 23-5-414. Restrictions on bingo, and keno, and raffles  
 14 ---bingo-or-keno-machines-in-establishment-limit---hours-of  
 15 operation---exception. ~~{1}~~ In the playing of live bingo or  
 16 keno, no a person who is not physically present on the  
 17 premises where the game is actually conducted shall may not  
 18 be allowed to participate as a player in the game.

19 ~~{2}--Raffles---authorized---by---this---part---shall---be~~  
 20 ~~restricted-to-events-and-participants-within-the--geographic~~  
 21 ~~confines-of-the-state-of-Montana-~~

22 ~~{3}--No---establishment---may---receive---licenses---under~~  
 23 ~~23-5-421-for-or-make-available-for-play-more-than--15--bingo~~  
 24 ~~or--keno--machines;--A--local--governing--body,--however,--may~~  
 25 ~~restrict-the-number-of-licensed-machines-available-for-play~~

*video poker & keno*  
*The entire video rewrite so it's complete in this document.*

1 in-an-establishment-to-less-than-15-but-must-allow-at-least  
2 5-

3 (4)--(a)-Except--as--provided--in--subsection--(4)(b),--an  
4 establishment--that--receives--a--license--to--make--a--bingo--or  
5 keno--machine--available--for--play--must--have--the--machine--shut  
6 off--each--day--during--the--hours--provided--in--16-3-304--for  
7 closure---of---licensed---retail---alcoholic---beverage  
8 establishments;

9 (b)--A--local--governing--body--may--establish--any--hours--of  
10 play--for--bingo--or--keno--machines--that--it--determines--proper."

11 NEW SECTION. Section 42. Hours of play --  
12 restrictions ---penalty. (1) A live bingo or keno game must  
13 be closed for play between the hours of 2 a.m. and 8 a.m. of  
14 each day. However, in the jurisdiction of a local government  
15 where the live bingo or keno game is played, the local  
16 government may adopt an ordinance defining other hours of  
17 play within that jurisdiction.

18 (2)--A--violation--of--this--section--is--a--misdemeanor  
19 punishable--under--(section-23); HOWEVER, IN THE JURISDICTION  
20 OF A LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL  
21 GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2  
22 A.M. AND 8 A.M.

23 Section 43. Section 23-5-431, MCA, is amended to read:  
24 "23-5-431. Penalty Criminal penalty. Every A person  
25 who willfully purposely or knowingly violates or who

1 procures, aids, or abets in the willful a violation of this  
2 part or any ordinance, resolution, or regulation rule  
3 adopted pursuant thereto shall be deemed to this part is  
4 guilty of a misdemeanor and upon conviction shall be  
5 punished by a fine of not more than \$1,000 or imprisonment  
6 in the county jail for not more than 3 months, or both  
7 punishable pursuant to [section 23]."

8 Section 44. Section 23-5-602, MCA, is amended to read:

9 "23-5-602. Definitions. As used in this part, the  
10 following definitions apply:

11 (1) "Associated equipment" means all proprietary  
12 devices, machines, or parts used in the manufacture or  
13 maintenance of a video draw-poker gambling machine,  
14 including but not limited to integrated circuit chips,  
15 printed wired assembly, printed wired boards, printing  
16 mechanisms, video display monitors, and metering devices,  
17 and cabinetry.

18 (2) "Department" means the department of commerce.

19 (2) "Bingo machine" means an electronic video gambling  
20 machine that, upon insertion of cash, is available to play  
21 bingo as defined by rules of the department. The machine  
22 utilizes a video display and microprocessors in which, by  
23 the skill of the player, by chance, or both, the player may  
24 receive free games or credits that may be redeemed for cash.  
25 The term does not include a slot machine or a machine that