

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

## HOUSE BILL NO. 581

INTRODUCED BY B. WADDILL

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A DETERMINATION OF PUBLIC CONVENIENCE AND NECESSITY PRIOR TO THE ISSUANCE OR TRANSFER OF A GAMBLING OPERATOR'S LICENSE; PROVIDING THAT THE DEPARTMENT OF JUSTICE IS TO MAKE THE DETERMINATION OF PUBLIC CONVENIENCE AND NECESSITY AFTER WRITTEN PROTESTS AGAINST ISSUANCE OF AN OPERATOR'S LICENSE AND AFTER CONDUCTING A PUBLIC HEARING ON THE ISSUE; PROVIDING CRITERIA FOR THE DETERMINATION OF PUBLIC CONVENIENCE AND NECESSITY; AMENDING SECTION 23-5-177, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**NEW SECTION. Section 1. Determination of public convenience and necessity.** (1) An original

operator's license or a transfer of an operator's license to different premises after [the effective date of this act] may be issued or transferred only if the license is justified by public convenience and necessity.

(2) Within 30 days after an application for an operator's license is received by the department, the department shall publish notice in a newspaper of general circulation in the city, town, or county of the premises in which the gambling activity is to be conducted. The notice must be published once a week for 2 consecutive weeks. The notice must contain a statement that an operator's license has been applied for and the address of the premises in which the gambling activity is to be conducted. The notice must also state that the department will receive protests against the public convenience and necessity of the operator's license and that any protests must be in writing and addressed to the department. The notice must state that protests must be received with 2 weeks of the last date of publication. The notice must provide an address at which to mail protests and a phone number for further information.

(3) (a) If written protests are not received, public convenience and necessity are presumed and a public hearing will not be held.

(b) If written protests are received, the department shall conduct a hearing to determine public convenience and necessity. The hearing must be conducted in the city or town or, if not within a city or town, the county in which the premises in which the gambling activity is to be conducted are located.

1 The hearing must be held within 60 days of the publication of the last public notice. The department shall  
2 notify the applicant and all protestors of the time and place for the hearing. A notice of the hearing must  
3 be published not more than 3 weeks or less than 7 days prior to the date of the hearing. At the hearing,  
4 the department may receive testimony from all interested persons, including people who are not parties  
5 or who did not make written protests.

6 (4) After the hearing, the department shall determine whether public convenience and necessity  
7 are served by the issuance of the operator's license. In determining public convenience and necessity, the  
8 department shall consider:

9 (a) the public's demand or probable demand for the gambling activity that presently exists or is  
10 reasonably expected to exist within the next 5 years in the area where the proposed premises are located  
11 and in areas around the area where the proposed premises are located;

12 (b) whether the premises at the proposed location are consistent with adopted or pending  
13 planning, annexation, and zoning ordinances of the city, town, or county; and

14 (c) the community expression of need and convenience illustrated by actions of the governing  
15 body of the local government, written and oral testimony taken in connection with the hearing, and other  
16 manifestations of whether there is a justification of public convenience and necessity.

17 (5) If a public hearing is held, the department shall issue its findings on whether the proposed  
18 premises are justified by public convenience and necessity within 60 days of the date of the hearing.

19

20 **Section 2.** Section 23-5-177, MCA, is amended to read:

21 **"23-5-177. Operator of gambling establishment -- license -- fee.** (1) It is a misdemeanor for a  
22 person who is not licensed by the department as an operator to make available to the public for play a  
23 gambling device or gambling enterprise for which a permit must be obtained from the department.

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

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

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

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

29 (3) Before issuing an operator's license, the department shall approve, in accordance with  
30 23-5-117, the premises in which the gambling activity is to be conducted and shall determine that the

1 license is required by public convenience and necessity as provided in [section 1].

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

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

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

6 (b) the operator's name;

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

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

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

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

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

20 (9) The operator's license must be prominently displayed upon the premises for which it is issued."  
21

22 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an  
23 integral part of Title 23, chapter 5, part 1, and the provisions of Title 23, chapter 5, part 1, apply to  
24 [section 1].  
25

26 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.  
27

28 NEW SECTION. Section 5. Applicability. [This act] applies to applications for operators' licenses  
29 or applications for transfer of premises of operators' licenses received after [the effective date of this act].  
30

- END -