

## HOUSE BILL NO. 758

INTRODUCED BY DEVLIN, FORRESTER, GALLUS, MAEDJE, SHEA, TROPILA

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATED TO VIDEO  
5 GAMBLING MACHINES; IMPOSING AN ANNUAL PERMIT SURCHARGE FEE BASED ON THE NUMBER OF  
6 VIDEO GAMBLING MACHINES ON THE PREMISES; PROVIDING FOR THE PRORATION OF THE FEE;  
7 PROVIDING THAT THE FEE BE DEPOSITED IN THE STATE GENERAL FUND; EXEMPTING  
8 ESTABLISHMENTS THAT HAVE PERMITTED VIDEO GAMBLING MACHINES ON THE PREMISES FROM  
9 LOCAL GOVERNMENT ORDINANCES ON SMOKING THAT ARE MORE RESTRICTIVE THAN STATE LAWS  
10 ON SMOKING; AMENDING SECTION 23-5-612, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE  
11 AND APPLICABILITY DATES."

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

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15 NEW SECTION. **Section 1. Premises with video gambling machines -- local smoking ordinance**  
16 **no more restrictive than state law.** An establishment that has been granted a permit under Title 23, chapter  
17 5, part 6, for the placement of video gambling machines on the premises is exempt from any local government  
18 ordinance that is more restrictive than the provisions of Title 50, chapter 40, part 1.

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20 **Section 2.** Section 23-5-612, MCA, is amended to read:

21 **"23-5-612. Machine permits -- fee fees.** (1) The department, upon payment by the operator of the fee  
22 fees provided in ~~subsection~~ subsections (2) and (4) and in conformance with rules adopted under this part, shall  
23 issue to the operator an annual permit for an approved video gambling machine.

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

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

1 remains valid for the remainder of the permit year.

2 (3) The department shall deposit 50% of the total permit fee collected under subsection (2)(a) and 100%  
3 of the machine transfer processing fee collected under subsection (2)(b) in the state special revenue fund for  
4 purposes of administering this part and for other purposes provided by law. The balance of the fee collected  
5 under subsection (2)(a) must be returned on a quarterly basis to the local government jurisdiction in which the  
6 gambling machine is located. The local government portion of the fee is statutorily appropriated to the  
7 department, as provided in 17-7-502, for deposit in the local government treasury.

8 (4) (A) In addition to the annual permit fee charged under subsection (2), the department shall charge  
9 a \$10 annual permit surcharge fee for each video gambling machine that is on a licensed premises having fewer  
10 than 20 machines and a \$20 annual permit surcharge fee for each machine that is on a licensed premises  
11 having 20 machines. The annual permit surcharge fee must be prorated as provided in subsection (2)(a).

12 (b) The annual permit surcharge fee charged under subsection (4)(a) must be deposited in the  
13 prevention and stabilization account established in [section 14 of House Bill No. 722]] IN THE STATE GENERAL  
14 FUND."

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16 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an  
17 integral part of Title 7, chapter 1, part 1, and the provisions of Title 7, chapter 1, part 1, apply to [section 1].

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19 ~~NEW SECTION. Section 4. Coordination instruction.~~ If House Bill No. 722 is not passed and  
20 approved, then the bracketed language in [section 2 of this act], amending 23-5-612, is replaced with the phrase  
21 "in the state special revenue fund to the credit of the department of public health and human services for state  
22 matching funds for medicaid-funded services".

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

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26 NEW SECTION. Section 5. Applicability. (1) [Section 1] applies retroactively, within the meaning of  
27 1-2-109, to local government ordinances on smoking adopted prior to [the effective date of this act].

28 (2) [Section 2] applies to annual permit fees charged after June 30, 2003.

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