

**DEPARTMENT OF JUSTICE**  
**SB 103: Prohibit Internet Gambling**

**Background**

Montana's Constitution and laws make it clear that all gambling is illegal unless it is specifically authorized by the legislature. Since Internet gambling has not been authorized in Montana, it can be assumed to be illegal. In addition, extending credit for purposes of gambling is illegal in Montana, and most Internet gambling depends on the use of credit cards.

**Need for a Law to Specifically Prohibit Internet Gambling**

Montana has not enacted a specific statute against Internet gambling. The Gambling Control Division frequently receives requests for legal guidance about the use of the Internet for gambling-related activities. A statute that provided a specific prohibition and exceptions to that prohibition would eliminate any doubts about the legality of Internet gambling in Montana.

For a number of years, some members of Congress have attempted to enact a federal prohibition on Internet gambling but immediate action is unlikely.

**Proposed Legislation:**

SB 103 would:

- add a definition of "Internet gambling" to the list of illegal gambling enterprises in Montana. The definition would clearly exclude activities of the Montana Lottery and simulcast wagering regulated by the Board of Horseracing, and
- provide an exception to generally allow electronic aids to gaming on Indian lands, to avoid conflict with the federal Indian Gaming Regulatory Act. The National Indian Gaming Commission regulates gaming on Indian lands.

The following definition would be added to § 23-5-112:

(a) "Internet gambling", by whatever name known, including but not limited to the conduct of any legal or illegal gambling enterprise through the use of communications technology that allows a person utilizing money, paper checks, electronic checks, electronic transfers of money, credit cards, debit cards or any other instrumentality, to transmit to a computer, information to assist in placing of a bet or wager and corresponding information related to the display of the game, game outcomes or other similar information.

(b) Internet gambling does not include the operation of a simulcast facility allowed by Title 23 Chapter 4, or the state lottery provided for in Title 23 Chapter 7. If all aspects of the game are conducted on Indian lands in conformity with federal statutes and with administrative regulation of the national Indian gaming commission, the term does not include class II gaming or class III gaming as defined by 25 U.S.C. 2703.

2005 Legislature  
January 7, 2005  
LEGISLATIVE JUDICIAL  
Exhibit No. 5  
Date 1-7-05  
Bill No. SB 103