

SENATE BILL NO. 244

INTRODUCED BY J. WINDY BOY

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A BILL FOR AN ACT ENTITLED: "AN ACT DELEGATING AUTHORITY TO THE GOVERNOR TO NEGOTIATE TRIBAL-STATE GAMING COMPACTS THAT ALLOW AUTHORIZED CLASS III GAMING FOR PLAY EXCLUSIVELY ON INDIAN LANDS AND FOR THE EXCLUSIVE ECONOMIC BENEFIT OF MONTANA INDIAN TRIBES; AMENDING SECTION 23-5-112, 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. Legislative intent.** For purposes of implementing the federal Indian Gaming Regulatory Act, 25 U.S.C. 2701, et seq., it is the intent of the legislature:

- (1) to include authorized class III games in tribal-state gaming compacts for play exclusively on Indian lands and for the exclusive economic benefit of Montana Indian tribes; and
- (2) that [sections 1 through 4] be construed, to the maximum extent possible, as being consistent with Article III, section 9, of the Montana constitution and state law regulating gambling.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 4], the following definitions apply:

- (1) "Authorized class III games" means:
 - (a) roulette;
 - (b) craps;
 - (c) slot machines as defined in 23-5-112;
 - (d) blackjack or twenty-one; and
 - (e) other house-banked card games commonly played.
- (2) "Class III games" means those games permitted by the Indian Gaming Regulatory Act as provided in 25 U.S.C. 2703(8).
- (3) "Indian lands" includes those lands as defined by the Indian Gaming Regulatory Act in 25 U.S.C. 2703(4).



1 (4) "Indian tribe" means a tribe as defined by the Indian Gaming Regulatory Act in 25 U.S.C. 2703(5).

2 (5) "Tribal-state gaming compact" means a tribal-state compact described in the Indian Gaming
3 Regulatory Act under 25 U.S.C. 2710(d).

4
5 **NEW SECTION. Section 3. Regulatory jurisdiction.** In accordance with the provisions of the Indian
6 Gaming Regulatory Act contained in 25 U.S.C. 2710, a tribal gaming commission, as established by tribal law,
7 code, ordinance, or resolution adopted by the governing body of a Montana Indian tribe, has exclusive jurisdiction
8 over all gaming on Indian lands within the external boundaries of the tribe's reservation.

9
10 **NEW SECTION. Section 4. Governor authorized to negotiate gaming compacts with Montana**
11 **Indian tribes -- inclusion of authorized class III games.** The governor may represent the state in any
12 negotiations with Montana Indian tribes for compacts to allow authorized class III games under [sections 1
13 through 4] and the provisions of the Indian Gaming Regulatory Act contained in 25 U.S.C. 2710(d)(3)(B).

14
15 **Section 5.** Section 23-5-112, MCA, is amended to read:

16 **"23-5-112. Definitions.** Unless the context requires otherwise, the following definitions apply to parts
17 1 through 8 of this chapter:

18 (1) "Applicant" means a person who has applied for a license or permit issued by the department
19 pursuant to parts 1 through 8 of this chapter.

20 (2) "Application" means a written request for a license or permit issued by the department. The
21 department shall adopt rules describing the forms and information required for issuance of a license.

22 (3) "Associated gambling business" means a person who provides a service or product to a licensed
23 gambling business and who:

24 (a) has a reason to possess or maintain control over gambling devices;

25 (b) has access to proprietary information or gambling tax information; or

26 (c) is a party in processing gambling transactions.

27 (4) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected
28 by the department and that randomly selects the numbers.

29 (5) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns.

30 The letters B-I-N-G-O must appear above the design, with each letter above one of the columns. More than 75

1 numbers may not be used. One or more numbers may appear in each square, except for the center square,
2 which may be considered a free play. Numbers must be randomly drawn using authorized equipment until the
3 game is won by the person or persons who first cover one or more previously designated arrangements of
4 numbers on the bingo card.

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

7 (7) "Bingo session" means all activities incidental to a series of bingo games conducted by a licensed
8 operator beginning when the first bingo ball is drawn in the first game of bingo.

9 (8) "Card game table" or "table" means a live card game table:

10 (a) authorized by permit and made available to the public on the premises of a licensed gambling
11 operator; or

12 (b) operated by a senior citizen center.

13 (9) "Card game tournament" means a gambling activity for which a permit has been issued involving
14 participants who pay valuable consideration for the opportunity to compete against each other in a series of live
15 card games conducted over a designated period of time.

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

17 (11) "Department" means the department of justice.

18 (12) "Distributor" means a person who:

19 (a) purchases or obtains from a licensed manufacturer, distributor, route operator, or operator equipment
20 of any kind for use in gambling activities; and

21 (b) sells the equipment to a licensed manufacturer, distributor, route operator, or operator.

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

25 (b) The term does not mean conducting or participating in a promotional game of chance and does not
26 include amusement games regulated by Title 23, chapter 6, part 1.

27 (c) The term does not include social card games played solely for prizes of minimal value, defined as
28 class I gaming by 25 U.S.C. 2703.

29 (14) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot
30 machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling

1 activity.

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

4 (16) (a) "Gift enterprise" means a gambling activity in which persons have qualified to obtain property to
5 be awarded by purchasing or agreeing to purchase goods or services.

6 (b) The term does not mean:

7 (i) a cash or merchandise attendance prize or premium that county fair commissioners of agricultural
8 fairs and rodeo associations may give away at public drawings at fairs and rodeos;

9 (ii) a promotional game of chance; or

10 (iii) an amusement game regulated under Title 23, chapter 6.

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

12 (18) "House player" means a person participating in a card game who has a financial relationship with
13 the operator, card room contractor, or dealer or who has received money or chips from the operator, card room
14 contractor, or dealer to participate in a card game.

15 (19) "Illegal gambling device" means a gambling device not specifically authorized by statute, ~~or~~ by the
16 rules of the department, or by a tribal-state gaming compact negotiated and approved pursuant to [sections 1
17 through 4]. The term includes:

18 (a) a ticket or card, by whatever name known, containing concealed numbers or symbols that may match
19 numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push card, tip
20 board, pickle ticket, break-open, or jar game, except for one used under Title 23, chapter 7, under part 5 of this
21 chapter, in a bingo game approved by the department under part 4 of this chapter, or in a promotional game of
22 chance approved by the department; and

23 (b) an apparatus, implement, or device, by whatever name known, specifically designed to be used in
24 conducting an illegal gambling enterprise, including a faro box, faro layout, roulette wheel, roulette table, craps
25 table, or slot machine, except as provided in 23-5-153.

26 (20) "Illegal gambling enterprise" means a gambling enterprise that violates or is not specifically
27 authorized by a statute, ~~or~~ by a rule of the department, or by a tribal-state gaming compact negotiated and
28 approved pursuant to [sections 1 through 4]. The term includes:

29 (a) a card game, by whatever name known, involving any bank or fund from which a participant may win
30 money or other consideration and that receives money or other consideration lost by the participant and includes

1 the card games of blackjack, twenty-one, jacks or better, baccarat, or chemin de fer;

2 (b) a dice game, by whatever name known, in which a participant wagers on the outcome of the roll of
3 one or more dice, including craps, hazard, or chuck-a-luck, but not including activities authorized by 23-5-160;

4 (c) sports betting, by whatever name known, in which a person places a wager on the outcome of an
5 athletic event, including bookmaking, parlay bets, or sultan sports cards, but not including those activities
6 authorized in Title 23, chapter 4, and parts 2, 5, and 8 of this chapter;

7 (d) credit gambling; and

8 (e) internet gambling.

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

14 (b) The term does not include the operation of a simulcast facility or advance deposit wagering with a
15 licensed advance deposit wagering hub operator allowed by Title 23, chapter 4, or the state lottery provided for
16 in Title 23, chapter 7. If all aspects of the gaming are conducted on Indian lands in conformity with federal statutes
17 and with administrative regulations of the national Indian gaming commission, the term does not include class
18 II gaming or class III gaming as defined by 25 U.S.C. 2703.

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

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

24 (24) "License" means a license for an operator, dealer, card room contractor, manufacturer of devices
25 not legal in Montana, sports tab game seller, manufacturer of electronic live bingo or keno equipment, other
26 manufacturer, distributor, or route operator that is issued to a person by the department.

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

28 (26) "Live card game" or "card game" means a card game that is played in public between persons on
29 the premises of a licensed gambling operator or in a senior citizen center.

30 (27) (a) "Lottery" means a scheme, by whatever name known, for the disposal or distribution of property

1 among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property
2 or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that
3 it is to be distributed or disposed of by lot or chance.

4 (b) The term does not mean lotteries authorized under Title 23, chapter 7.

5 (28) "Manufacturer" means a person who:

6 (a) assembles from raw materials or subparts a completed piece of equipment or pieces of equipment
7 of any kind to be used as a gambling device and who sells the equipment directly to a licensed distributor, route
8 operator, or operator;

9 (b) possesses gambling devices or components of gambling devices for the purpose of testing them;

10 or

11 (c) purchases gambling devices or components from licensed manufacturers, distributors, route
12 operators, or operators as trade-ins or to refurbish, rebuild, or repair to sell to licensed manufacturers, distributors,
13 route operators, or operators.

14 (29) "Nonprofit organization" means a nonprofit corporation or nonprofit charitable, religious, scholastic,
15 educational, veterans', fraternal, beneficial, civic, senior citizens', or service organization established to support
16 charitable activities, scholarships or educational grants, or community service projects.

17 (30) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and
18 operates or controls for use in public a gambling device or gambling enterprise authorized under parts 1 through
19 8 of this chapter.

20 (31) "Permit" means approval from the department to make available for public play a gambling device
21 or gambling enterprise approved by the department pursuant to parts 1 through 8 of this chapter.

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

24 (33) "Premises" means the physical building or property within or upon which a licensed gambling activity
25 occurs, as stated on an operator's license application and approved by the department.

26 (34) "Promotional game of chance" means a scheme, by whatever name known, for the disposal or
27 distribution of property among persons who have not paid or are not expected to pay any valuable consideration
28 or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the
29 property, a portion of it, or a share in it. The property is disposed of or distributed by simulating a gambling
30 enterprise authorized by parts 1 through 8 of this chapter or by operating a device or enterprise approved by the

1 department that was manufactured or intended for use for purposes other than gambling.

2 (35) "Public gambling" means gambling conducted in:

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

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

7 (c) a place, building, or conveyance to which the public does not have access if players are publicly
8 solicited or the gambling activity is conducted in a predominantly commercial manner.

9 (36) "Raffle" means a form of lottery in which each participant pays valuable consideration for a ticket to
10 become eligible to win a prize. Winners must be determined by a random selection process approved by
11 department rule.

12 (37) "Route operator" means a person who:

13 (a) purchases from a licensed manufacturer, route operator, or distributor equipment of any kind for use
14 in a gambling activity;

15 (b) leases the equipment to a licensed operator for use by the public; and

16 (c) may sell to a licensed operator equipment that had previously been authorized to be operated on a
17 premises and may sell gambling equipment to a distributor or manufacturer.

18 (38) "Senior citizen center" means a facility operated by a nonprofit or governmental organization that
19 provides services to senior citizens in the form of daytime or evening educational or recreational activities and
20 does not provide living accommodations to senior citizens. Services qualifying under this definition must be
21 recognized in the state plan on aging adopted by the department of public health and human services.

22 (39) (a) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance,
23 or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any
24 valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the
25 skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or
26 operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether
27 the payoff is made automatically from the machine or in any other manner.

28 (b) This definition does not apply to video gambling machines authorized under part 6 of this chapter.

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

