

HOUSE BILL NO. 181

INTRODUCED BY F. MANDEVILLE

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS FOR FANTASY SPORTS LEAGUES; ALLOWING MONTANA RESIDENTS TO PARTICIPATE IN CERTAIN ONLINE FANTASY SPORTS LEAGUES; AMENDING SECTIONS 23-5-112, 23-5-801, 23-5-802, AND 23-5-805, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 23-5-112, MCA, is amended to read:

**"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 8 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) "Associated gambling business" means a person who provides a service or product to a licensed gambling business and who:

- (a) has a reason to possess or maintain control over gambling devices;
- (b) has access to proprietary information or gambling tax information; or
- (c) is a party in processing gambling transactions.

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

(5) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns. The letters B-I-N-G-O must appear above the design, with each letter above one of the columns. More than 75 numbers may not be used. One or more numbers may appear in each square, except for the center square, which may be considered a free play. Numbers must be randomly drawn using authorized equipment until the game is won by the person or persons who first cover one or more previously designated arrangements of numbers on the bingo card.



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

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

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

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

8 (b) operated by a senior citizen center.

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

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

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

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

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

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

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

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

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

25 (d) The term does not include fantasy sports leagues under Title 23, chapter 5, part 8, that charge total  
26 fees not to exceed \$100.

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

30 (15) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme,

1 or agreement to provide gambling or a gambling device to the public.

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

4 (b) The term does not mean:

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

7 (ii) a promotional game of chance; or

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

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

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

13 (19) "Illegal gambling device" means a gambling device not specifically authorized by statute or by the  
14 rules of the department. The term includes:

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

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

23 (20) "Illegal gambling enterprise" means a gambling enterprise that violates or is not specifically  
24 authorized by a statute or a rule of the department. The term includes:

25 (a) a card game, by whatever name known, involving any bank or fund from which a participant may win  
26 money or other consideration and that receives money or other consideration lost by the participant and includes  
27 the card games of blackjack, twenty-one, jacks or better, baccarat, or chemin de fer;

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

30 (c) sports betting, by whatever name known, in which a person places a wager on the outcome of an

1 athletic event, including bookmaking, parlay bets, or sultan sports cards, but not including those activities  
2 authorized in Title 23, chapter 4, and parts 2, 5, and 8 of this chapter;

3 (d) credit gambling; and

4 (e) internet gambling.

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

10 (b) The term does not include the operation of a simulcast facility or advance deposit wagering with a  
11 licensed advance deposit wagering hub operator allowed by Title 23, chapter 4, or the state lottery provided for  
12 in Title 23, chapter 7, or a fantasy sports league that complies with Title 23, chapter 5, part 8. If all aspects of the  
13 gaming are conducted on Indian lands in conformity with federal statutes and with administrative regulations of  
14 the national Indian gaming commission, the term does not include class II gaming or class III gaming as defined  
15 by 25 U.S.C. 2703.

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

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

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

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

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

27 (27) (a) "Lottery" means a scheme, by whatever name known, for the disposal or distribution of property  
28 among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property  
29 or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that  
30 it is to be distributed or disposed of by lot or chance.

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

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

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

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

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

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

14 (30) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and  
15 operates or controls for use in public a gambling device or gambling enterprise authorized under parts 1 through  
16 8 of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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29 **Section 2.** Section 23-5-801, MCA, is amended to read:

30 **"23-5-801. Fantasy sports leagues defined.** As used in this part, a "fantasy sports league" means a

1 gambling activity conducted in the following manner:

2 (1) A fantasy sports league consists of a limited number of persons or groups of persons who pay an  
3 entrance fee for membership in the league. The entrance fee may include an administrative fee.

4 (2) Each league member creates a fictitious team composed of athletes from a given ~~professional~~ sport,  
5 such as baseball, basketball, or football. Player selection is conducted through random drawings, through a  
6 bidding process, or by selection from a roster prepared by the ~~parimutuel network~~ coordinator.

7 (3) Except for fantasy sports leagues operated under Title 23, chapter 4, after the initial teams are  
8 selected, interim replacement of players may occur by trade or purchase. A specific fee, which may not exceed  
9 the total entrance fee, is charged for each transaction.

10 (4) A method, as defined by league rules, is devised to permit each team to compete against other teams  
11 in the league. Points are awarded to a team according to the performance of individual players or teams or both  
12 during a designated time period.

13 (5) A league member may be eligible to receive a payout based on the number of points accumulated.  
14 Payouts, which may be in the form of cash or prizes, are awarded according to league rules.

15 (6) The roster of eligible participants prepared by the ~~parimutuel network~~ coordinator must be provided  
16 to each league member.

17 (7) Rules governing the conduct of the fantasy sports league must be provided in writing to each league  
18 member."

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20 **Section 3.** Section 23-5-802, MCA, is amended to read:

21 **"23-5-802. Fantasy sports leagues authorized.** (1) It is lawful to conduct or participate in a fantasy  
22 sports league, including a fantasy sports league that is operated under a parimutuel system of wagering regulated  
23 under Title 23, chapter 4, or a fantasy sports league conducted through the internet for which the total fees  
24 charged to participate do not exceed \$100.

25 (2) It is unlawful to wager on a fantasy sports league by telephone or by the internet. A wager does not  
26 include:

27 (a) any participation fee, other fees, or total fees not to exceed \$100 paid to participate in a fantasy  
28 sports league, including leagues conducted through the internet; or

29 (b) participation in a fantasy sports league, including a league conducted through the internet, that offers  
30 prizes but does not charge for participation."

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**Section 4.** Section 23-5-805, MCA, is amended to read:

**"23-5-805. Payouts -- administrative fees charged by commercial establishments.** (1) Except as provided in ~~subsection~~ subsections (2)(b) and (3), the total value of payouts to all league members must equal the amount collected for entrance, administrative, and transactions fees, minus payment for administrative expenses.

(2) (a) Except as provided in subsection (2)(b), if a commercial establishment charges an administrative fee for conducting a fantasy sports league, the fee for each participant may not be more than 15% of the amount charged as a participant's entrance fee.

(b) The parimutuel network, as defined in 23-4-101, shall distribute all funds wagered on fantasy sports leagues in any wagering pool pursuant to the requirements of 23-4-302 and 23-4-304.

(3) This section does not apply to a fantasy sports league, including a league conducted through the internet, that:

- (a) collects total fees not to exceed \$100; or
- (b) does not collect any fees for participation but offers prizes."

**NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

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