

HOUSE BILL NO. 766
INTRODUCED BY C. JUNEAU

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE VIDEO GAMBLING MACHINE TAX FROM 15 PERCENT TO 22 PERCENT OF THE GROSS INCOME FROM EACH GAMBLING MACHINE ON A LICENSED PREMISES BASED UPON THE NUMBER OF VIDEO GAMBLING MACHINES ON A LICENSED PREMISES; PROVIDING FOR THE ALLOCATION OF THE REVENUE; AMENDING SECTION 23-5-610, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 23-5-610, MCA, is amended to read:

"23-5-610. (Temporary) Video gambling machine gross income tax -- credit -- records -- distribution -- quarterly statement and payment. (1) A licensed machine owner shall pay to the department a video gambling machine tax ~~of 15%~~ based on a percentage of the gross income from each video gambling machine issued a permit under this part. A licensed machine owner may deduct from the gross income amounts equal to amounts stolen from machines if the amounts stolen are not repaid by insurance or under a court order, if a law enforcement agency investigated the theft, and if the theft is the result of either unauthorized entry and physical removal of the money from the machines or of machine tampering and the amounts stolen are documented. The video gambling machine tax is based upon the number of permitted machines on a premises, as follows:

- (a) the 1st three machines, 17% of the gross income;
- (b) the 4th through 6th machines, 18% of the gross income;
- (c) the 7th through 10th machines, 19% of the gross income;
- (d) the 11th through 19th machines, 20% of the gross income; and
- (e) all additional machines, 22% of the gross income.

(2) (a) A licensed machine owner is entitled to a tax credit for each video gambling machine for which a permit has been issued under this part if:

- (i) the permit was active for the video gambling machine during the 12-month period ending December 31, 2001;
- (ii) the department determines that the video gambling machine is incapable, in the form in which it was

approved by the department, of communicating with the automated accounting and reporting system authorized by 23-5-637; and

(iii) the licensed machine owner participates in the automated accounting and reporting system and incurs actual hardware or software costs prior to January 1, 2005, for conversion of the video gambling machine to make it compatible with the automated system.

(b) The amount of the tax credit allowed under subsection (2)(a) is \$250 for each video gambling machine or the actual hardware and software cost necessary for conversion of the video gambling machine to the automated accounting and reporting system, whichever is less.

(3) If a tax credit is claimed under subsection (2)(a), the credit is deducted from the tax due for the quarter or quarters that begin after the video gambling machine for which the tax credit is claimed is connected to the automated accounting and reporting system authorized by 23-5-637.

(4) A licensed machine owner shall keep a record of the gross income from each video gambling machine issued a permit under this part in the form the department requires. The records must at all times during the business hours of the licensee be subject to inspection by the department.

(5) (a) For each video gambling machine issued a permit under this part but not connected to the department's automated accounting and reporting system, a licensed machine owner shall, within 15 days after the end of each quarter and in the manner prescribed by the department, complete and deliver to the department a statement showing the total gross income, together with the total amount due the state as video gambling machine gross income tax for the preceding quarter. The statement must contain other relevant information that the department requires.

(b) For each video gambling machine issued a permit under this part that is connected to the department's automated accounting and reporting system, the department shall, within 5 working days after the end of each quarter, complete and deliver to the licensed machine owner (with a copy sent to the licensed operator, if different from the licensed machine owner, on whose premises the machine is placed) a statement showing the total gross income from the video gambling machine, together with the total amount due the state as video gambling machine gross income tax for the preceding quarter. The licensed machine owner shall remit the total amount due the state under this subsection within 25 days after the end of each quarter.

(6) Except as provided in subsection (7), the department shall, in accordance with the provisions of 15-1-501, ~~forward~~ deposit the tax from 15% of the gross income collected under subsection (5) to the state general fund. The tax in excess of 15% of the gross income must be allocated as follows:

(a) 3% to the board of regents of higher education to fund nonbeneficiary students at Montana tribal

colleges; and

(b) 97% to an account in the state special revenue fund to the credit of the department of public health and human services to be used for human services as appropriated by the legislature. The appropriations from the account may not supplant existing funding for human services.

(7) Receipts from the taxes collected under this section are pledged and dedicated to guarantee repayment of loans participated in under 23-5-638 in an amount sufficient to meet the prepayment obligation for the fiscal year during which the loans are made. The amount of taxes pledged by this subsection is the dollar amount of loan participation under 23-5-638 and must be allocated to a separate account in the short-term investment pool. The board of investments is not entitled to use the proceeds from taxes collected under this section to repay a loan made under 23-5-638 unless the board certifies that all other commercially available means of collection on the loan have been exhausted. (Terminates December 31, 2005--sec. 10, Ch. 424, L. 1999.)

23-5-610. (Effective January 1, 2006) Video gambling machine gross income tax -- credit -- records -- distribution -- quarterly statement and payment. (1) A licensed machine owner shall pay to the department a video gambling machine tax ~~of 15%~~ based on a percentage of the gross income from each video gambling machine issued a permit under this part. A licensed machine owner may deduct from the gross income amounts equal to amounts stolen from machines if the amounts stolen are not repaid by insurance or under a court order, if a law enforcement agency investigated the theft, and if the theft is the result of either unauthorized entry and physical removal of the money from the machines or of machine tampering and the amounts stolen are documented. The video gambling machine tax is based upon the number of permitted machines on a premises, as follows:

- (a) the 1st five machines, 16% of the gross income;
- (b) the 6th through 10th machines, 18% of the gross income;
- (c) the 11th through 15th machines, 20% of the gross income; and
- (d) the 16th and all additional machines, 22% of the gross income.

(2) (a) A licensed machine owner is entitled to a tax credit for each video gambling machine for which a permit has been issued under this part if:

(i) the permit was active for the video gambling machine during the 12-month period ending December 31, 2001;

(ii) the department determines that the video gambling machine is incapable, in the form in which it was approved by the department, of communicating with the automated accounting and reporting system authorized

by 23-5-637; and

(iii) the licensed machine owner participates in the automated accounting and reporting system and incurs actual hardware or software costs prior to January 1, 2005, for conversion of the video gambling machine to make it compatible with the automated system.

(b) The amount of the tax credit allowed under subsection (2)(a) is \$250 for each video gambling machine or the actual hardware and software cost necessary for conversion of the video gambling machine to the automated accounting and reporting system, whichever is less.

(3) If a tax credit is claimed under subsection (2)(a), the credit is deducted from the tax due for the quarter or quarters that begin after the video gambling machine for which the tax credit is claimed is connected to the automated accounting and reporting system authorized by 23-5-637.

(4) A licensed machine owner shall keep a record of the gross income from each video gambling machine issued a permit under this part in the form the department requires. The records must at all times during the business hours of the licensee be subject to inspection by the department.

(5) (a) For each video gambling machine issued a permit under this part but not connected to the department's automated accounting and reporting system, a licensed machine owner shall, within 15 days after the end of each quarter and in the manner prescribed by the department, complete and deliver to the department a statement showing the total gross income, together with the total amount due the state as video gambling machine gross income tax for the preceding quarter. The statement must contain other relevant information that the department requires.

(b) For each video gambling machine issued a permit under this part that is connected to the department's automated accounting and reporting system, the department shall, within 5 working days after the end of each quarter, complete and deliver to the licensed machine owner (with a copy sent to the licensed operator, if different from the licensed machine owner, on whose premises the machine is placed) a statement showing the total gross income from the video gambling machine, together with the total amount due the state as video gambling machine gross income tax for the preceding quarter. The licensed machine owner shall remit the total amount due the state under this subsection within 25 days after the end of each quarter.

(6) The department shall, in accordance with the provisions of 15-1-501, forward deposit the tax from 15% of the gross income collected under subsection (5) to the state general fund. The tax in excess of 15% of the gross income must be allocated as follows:

(a) 3% to the board of regents of higher education to fund nonbeneficiary students at Montana tribal colleges; and

(b) 97% to an account in the state special revenue fund to the credit of the department of public health and human services to be used for human services as appropriated by the legislature. The appropriations from the account may not supplant existing funding for human services."

NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 2003.

NEW SECTION. Section 3. Applicability. [This act] applies to video gambling machine gross income earned after June 30, 2003.

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