

SENATE BILL NO. 540

INTRODUCED BY JACKSON, COCCHIARELLA, BROWN, SQUIRES, SMITH, STEINBEISSER, BALLYEAT,
LARSON

BY REQUEST OF THE SENATE BUSINESS, LABOR, AND ECONOMIC AFFAIRS STANDING
COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING POSSESSION OF AN ANTIQUE ILLEGAL GAMBLING DEVICE BY A LICENSED RETAIL BUSINESS ESTABLISHMENT FOR PURPOSES OF RESALE AND NOT FOR OPERATION; AMENDING ~~SECTION~~ SECTIONS 23-5-152 AND 23-5-153, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 23-5-152, MCA, is amended to read:

"23-5-152. Possession of illegal gambling device or conducting illegal gambling enterprise prohibited -- exceptions. (1) Except as provided in 23-5-153 and subsections (2) through ~~(5)~~ (6) of this section, it is a misdemeanor punishable under 23-5-161 for a person to purposely or knowingly:

(a) have in the person's possession or under the person's control or permit to be placed, maintained, or kept in any room, space, enclosure, or building owned, leased, or occupied by or under the person's management or control an illegal gambling device; or

(b) operate an illegal gambling enterprise.

(2) Subsection (1) does not apply to a public officer or to a person coming into possession of an illegal gambling device in or by reason of the performance of an official duty and holding it to be disposed of according to law.

(3) (a) The department may adopt rules to license persons to manufacture gambling devices that are not legal for public play in the state.

(b) A person may not manufacture an illegal gambling device without having obtained a license from the department. The department may charge an administrative fee for the license that is commensurate with the cost of issuing the license.

(4) (a) A person licensed under subsection (3) may conduct only those activities authorized under this subsection (4).

(b) A licensee may bring an illegal gambling device, including an illegal video gambling machine, into the state if:

(i) the illegal gambling device contains a component that will be used by the licensee to manufacture an illegal gambling device for export from the state; or

(ii) the illegal gambling device will be reconditioned, refurbished, repaired, tested, or otherwise substantially modified in preparation for export from the state; and

(iii) the illegal gambling device will be exported from the state; and

(iv) the licensee has notified the department and received authorization from the department to bring the illegal gambling device into the state. The licensee is subject to reporting requirements provided for in rules adopted under subsection (3)(a).

(c) A licensee may also bring an illegal video gambling machine into the state if:

(i) the illegal video gambling machine will be reconditioned, refurbished, repaired, or otherwise substantially modified for conversion to an authorized video gambling machine; and

(ii) the licensee has notified the department and has received authorization from the department to bring the illegal video gambling machine into the state. The licensee is subject to reporting requirements provided for in rules adopted under subsection (3)(a).

(5) An illegal gambling device may be possessed or located for display purposes only and not for operation:

(a) in a public or private museum; or

(b) in any other public place if the device has been made permanently inoperable for purposes of conducting a gambling activity.

(6) An ANTIQUE illegal gambling device may be possessed by a licensed retail business establishment for purposes of resale and not for operation PERSON LICENSED BY THE DEPARTMENT TO SELL ANTIQUE SLOT MACHINES AND ANTIQUE ILLEGAL GAMBLING DEVICES AS PROVIDED IN 23-5-153."

SECTION 2. SECTION 23-5-153, MCA, IS AMENDED TO READ:

"23-5-153. Possession and sale of antique slot machines and other antique illegal gambling devices. (1) For the purposes of this section, an antique slot machine is a mechanically or electronically operated slot machine that at any present time is more than 25 years old. An antique illegal gambling device is an illegal gambling device that at any present time is more than 25 years old.

(2) Except as provided in subsection (3), an antique slot machine or antique illegal gambling device may

be possessed, located, and operated only in a private residential dwelling.

(3) (a) An antique slot machine or antique illegal gambling device may be possessed or located for purposes of display only and not for operation:

(i) in a public or private museum; or

(ii) in any other public place if the machine or device has been made permanently inoperable for purposes of conducting a gambling activity.

(b) A licensed manufacturer-distributor or a person licensed under subsection (4) may possess antique slot machines and antique illegal gambling devices for purposes of commercially selling or otherwise supplying the machines.

(4) A person other than a licensed manufacturer-distributor may not sell more than three antique slot machines or three antique illegal gambling devices in a 12-month period without first obtaining from the department an annual license for selling the machines or other antique illegal gambling devices. The fee for the license is \$50 a year. The fee must be retained by the department for administrative purposes. The department may not issue a license under this subsection to a licensed operator.

(5) A person or entity legally possessing ~~a~~ an antique slot machine or illegal gambling device under subsection (2) or (3) may sell or otherwise supply a machine or device to another person or entity who may legally possess a ~~slot~~ machine or device.

(6) An antique slot machine or antique illegal gambling device may not be operated for any commercial or charitable purpose."

NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 4. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to illegal gambling devices possessed by a licensed retail business establishment for purposes of resale and not for operation on or after December 31, 2006.

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