

1 HOUSE BILL NO. 38

2 INTRODUCED BY C. SCHREINER

3 BY REQUEST OF THE DEPARTMENT OF JUSTICE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING GAMBLING CONTROL LAWS; REVISING DEFINITIONS;
6 REVISING THE AUTHORITY AND DUTIES OF GAMBLING INVESTIGATORS; REVISING THE POWERS AND
7 DUTIES OF THE DEPARTMENT OF JUSTICE RELATED TO GAMBLING CONTROL; AUTHORIZING THE
8 DEPARTMENT TO ESTABLISH A CALCUTTA POOL PERMIT APPLICATION; ESTABLISHING A PERMIT FEE;
9 AMENDING LIVE CARD GAME PERMIT REQUIREMENTS; AMENDING THE DEFINITION OF "SPORTS TAB
10 GAME"; AMENDING SECTIONS 23-5-112, 23-5-113, 23-5-115, 23-5-222, 23-5-306, AND 23-5-501, MCA; AND
11 PROVIDING EFFECTIVE DATES."

12

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

14

15 **Section 1.** 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 of bridge, cribbage, hearts, pinochle, pitch, rummy, solo,
28 and whist played solely for prizes of minimal value, ~~defined as class I gaming by 25 U.S.C. 2703~~ as defined by
29 department rule.

30 (14) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot

1 machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling
2 activity.

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

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

7 (b) The term does not mean:

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

10 (ii) a promotional game of chance; or

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

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

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

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

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

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

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

6 (d) credit gambling; and

7 (e) internet gambling.

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

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

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

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

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

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

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

29 (27) (a) "Lottery" means a scheme, by whatever name known, for the disposal or distribution of property
30 among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property

1 or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that
2 it is to be distributed or disposed of by lot or chance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **Section 2.** Section 23-5-113, MCA, is amended to read:

2 **"23-5-113. Department as criminal justice agency.** The department is a criminal justice agency:
3 ~~Designated whose designated~~ agents of the department are granted peace officer status, with the power of
4 search, seizure, and arrest; Agents are authorized to investigate gambling activities in this state regulated by
5 parts 1 through 8 of this chapter and the rules of the department, and to report violations to the county attorney
6 of the county in which they occur, to investigate and report on activities related to liquor and tobacco
7 administration under Title 16, and to act as appointed by the attorney general."

8

9 **Section 3.** Section 23-5-115, MCA, is amended to read:

10 **"23-5-115. Powers and duties of department -- licensing.** (1) The department shall administer the
11 provisions of parts 1 through 8 of this chapter.

12 (2) The department shall adopt rules to administer and implement parts 1 through 8 of this chapter.

13 (3) The department shall provide licensing procedures, prescribe necessary application forms, and grant
14 or deny license applications and may provide for the issuance of temporary operating authority.

15 (4) The department shall, as a prerequisite to the issuance of a license pursuant to the authority
16 contained in this chapter, require the applicant to submit fingerprints for the purpose of a criminal background
17 investigation by the department and the federal bureau of investigation.

18 (5) The applicant shall sign a release of information to the department and is responsible to the
19 department for the payment of all fees associated with the criminal background check.

20 (6) The department shall prescribe recordkeeping requirements for licensees, provide a procedure for
21 inspection of records, provide a method for collection of taxes, and establish penalties for the delinquent reporting
22 and payment of required taxes.

23 (7) The department may suspend, revoke, deny, or place a condition on a license issued under parts
24 1 through 8 of this chapter.

25 (8) The department may not make public or otherwise disclose confidential criminal justice information,
26 as defined in 44-5-103, information obtained in the tax reporting processes, personal information protected by
27 an individual privacy interest, or trade secrets, as defined in 30-14-402, specifically identified and for which there
28 are reasonable grounds of privilege asserted by the party claiming the privilege.

29 (9) The department shall assess, collect, and disburse any fees, taxes, or charges authorized under
30 parts 1 through 8 of this chapter."

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

Section 4. Section 23-5-222, MCA, is amended to read:

"23-5-222. Calcutta pools authorized. It is hereby lawful to conduct or participate in a Calcutta pool as defined in 23-5-221. An organization shall apply to the department on a form prescribed and furnished by the department for a Calcutta permit. The application must be accompanied by a fee of \$25, which the department shall retain for administrative purposes."

Section 5. Section 23-5-306, MCA, is amended to read:

"23-5-306. Live card game table -- permit -- fees -- disposition of fees. (1) (a) A person who has been granted an operator's license under 23-5-177 and who holds an appropriate license to sell alcoholic beverages for consumption on the premises, as provided in 23-5-119, may be granted an annual permit for the placement of live card game tables.

(b) A permit is not required for social games played for prizes of minimal value, ~~defined as class I gaming by 25 U.S.C. 2703~~ as defined by department rule.

(c) The department may issue an annual permit for the placement of live card game tables to a person operating a premises not licensed to sell alcoholic beverages for consumption on the premises if:

(i) one or more live card game tables were legally operated on the premises on January 15, 1989;

(ii) the premises were licensed on January 15, 1989, to sell food, cigarettes, or any other consumable product;

(iii) the person has been granted an operator's license under 23-5-177; and

(iv) at the time of application for the permit:

(A) the person has continuously operated a live card game table on the premises since January 15, 1989; and

(B) the natural person or persons who own the business operated on the premises are the same as on January 15, 1989.

(2) The annual permit fee in lieu of taxes for each live card game table operated in a licensed operator's premises may not be prorated and must be:

(a) \$250 for the first table; and

(b) \$500 for each additional table.

(3) The department shall retain for administrative purposes \$100 of the fee collected under this part for

1 each live card game table.

2 (4) The department shall forward on a quarterly basis the remaining balance of the fee collected under
3 subsection (2) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which
4 the live card game table is located for deposit to the county or municipal treasury. A county is not entitled to
5 proceeds from fees assessed on live card game tables located in incorporated cities and towns within the county.
6 The local government portion of this fee is statutorily appropriated to the department, as provided in 17-7-502,
7 for deposit to the county or municipal treasury."

8

9 **Section 6.** Section 23-5-501, MCA, is amended to read:

10 **"23-5-501. Definitions.** As used in this part, unless the context clearly requires otherwise, the following
11 definitions apply:

12 (1) "Sports pool" means a gambling activity, other than an activity governed under chapter 4 or chapter
13 5, part 2, of this title, in which a person wagers money for each chance to win money or other items of value
14 based on the outcome of a sports event or series of sports events wherein the competitors in the sports event
15 or series of sports events are natural persons or animals.

16 (2) "Sports tab" means a folded or banded ticket with a face covered to conceal a combination of two
17 numbers, with each number ranging from zero through nine.

18 (3) "Sports tab game" means a gambling enterprise conducted on a card to which 100 sports tabs are
19 attached that have 100 different combinations for which consideration in money is paid by the person purchasing
20 each tab. A person may purchase a sports tab from the card for the chance to win money or other items of value
21 on a sports event or series of sports events as provided in 23-5-503."

22

23 **NEW SECTION. Section 7. Effective dates.** (1) Except as provided in subsections (2) and (3), [this
24 act] is effective October 1, 2015.

25 (2) [Section 2] and this section are effective on passage and approval.

26 (3) [Section 6] is effective July 1, 2015.

27

- END -