



AN ACT GENERALLY REVISING GAMBLING LAWS; CREATING THE MONTANA SPORTS BETTING ACT; PROVIDING AUTHORITY FOR CERTAIN ENTITIES TO CONDUCT SPORTS BETTING; PROVIDING FOR LICENSING OF SPORTS BETTING; PROVIDING DEFINITIONS; PROVIDING FOR A SPORTSBOOK OPERATOR LICENSE AND REQUIREMENTS; PROVIDING FOR A PLATFORM OPERATOR LICENSE AND REQUIREMENTS; PROVIDING REQUIREMENTS FOR SPORTS BETTING ASSOCIATED GAMBLING BUSINESSES; PROVIDING FOR SPORTSBOOK DUTIES AND OBLIGATIONS; PROVIDING ENFORCEMENT OVERSIGHT AND DUTIES FOR THE DEPARTMENT OF JUSTICE; PROVIDING RULEMAKING AUTHORITY; PROVIDING FOR DISPUTE RESOLUTION; PROVIDING TAXES AND FEES; PROVIDING FOR THE SPORTS BETTING FUND AND DISTRIBUTION; PROVIDING PENALTIES; AMENDING SECTIONS 23-5-110, 23-5-111, 23-5-112, 23-5-113, 23-5-114, 23-5-115, 23-5-116, 23-5-118, 23-5-119, 23-5-123, 23-5-128, 23-5-129, 23-5-130, 23-5-136, 23-5-138, 23-5-161, 23-5-162, 23-5-172, 23-5-177, AND 23-5-178, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

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

**Section 1. Short title.** [Sections 1 through 18] may be cited as the "Montana Sports Betting Act".

**Section 2. Definitions.** Unless the context requires otherwise, as used in [sections 1 through 18], the following definitions apply:

(1) "Adjusted gross sports betting receipts" means a sportsbook operator's gross sports betting receipts, less:

- (a) winnings paid; and
- (b) payments remitted to the federal government as federal excise tax.

(2) "Bet slip" means a ticket, paper record, or digital record of any and all bets made in a single transaction by a bettor with a sportsbook operator.

(3) (a) "Bettor" means an individual who places a sports bet with a sportsbook operator, either in person

at the sportsbook located in the premises of a licensed gaming operation or through the sportsbook operator's interactive sports betting platform while the individual is inside the premises of a licensed gaming operation. A bettor may include the gambling operator and employees of the operator on the premises of a licensed gaming operation.

(b) The term does not mean a sportsbook operator, interactive sports betting platform, or supplier or an employee of a sportsbook operator, interactive sports betting platform, or supplier.

(4) "Global risk management" means the direction, management, consultation, or instruction for purposes of managing risks associated with a sportsbook operator's sports betting conducted pursuant to [sections 1 through 18] and includes the setting and adjustment of a sports proposition. Global risk management may be provided only by a licensed sportsbook operator.

(5) "Gross sports betting receipts" means the total amount of money bet by bettors on sports propositions.

(6) "Interactive sports betting platform" means an entity licensed by the department to provide software and other technologies to a sportsbook operator to facilitate sports betting over the internet or other digital applications via hardware mechanisms such as laptop or desktop computers, mobile devices, or other personal electronic devices. An interactive sports betting platform may be owned and operated by a sportsbook operator or may exist as a third party that provides technological solutions to sportsbook operators.

(7) "Messenger bet" means a sports bet placed by a person for the benefit of another person in return for compensation.

(8) "Net sportsbook income" means the adjusted gross sports betting receipts minus the taxes payable pursuant to [section 14].

(9) "Platform" means the software or other technology designed and used to manage, conduct, and record interactive games and the wagers associated with interactive games. The term includes any mobile or computer application, website, or emerging or new technology deployed to advance the conduct and operation of interactive gambling, as well as any software and hardware designed to function in coordination with preexisting hardware or software already owned or used by a player registered through the platform.

(10) (a) "Sports betting" means the use of a sports betting account by a bettor to bet on sports events, in play wagers or sports propositions, with a sportsbook operator.

(b) The term does not include:

(i) gambling on table games or line games as provided under Title 23, chapter 5, of the type found in the premises of a licensed gambling facility, on lottery games of the Montana lottery, or on any form of video gambling machine;

(ii) wagering on any other contest related to a sporting event or series of events, including parimutuel animal racing, daily fantasy sports contests, sports pools, and sports tabs.

(11) "Sports betting account" means a financial record established by a sportsbook operator for a bettor that a bettor may use to deposit and withdraw funds for betting and other authorized purposes. A bettor shall place sports bets through the sports betting account, and the sportsbook operator may credit to the account winnings due to the bettor. A sportsbook operator may create a sports betting account for a bettor only after it has registered the bettor, remotely or in person, as provided in department rules. The sports betting account must be funded in person at the sportsbook or through a sports betting kiosk as defined by rule and approved by the department.

(12) "Sports betting fund" means the account provided for in [section 15].

(13) "Sports event" means a professional sporting or athletic contest or game, a collegiate sporting or athletic contest or game, an olympic sporting or athletic contest or game, or an electronic sporting event or competition, regardless of whether competitors in the event are composed of teams or single individuals and regardless of the geographic location of the contest, game, event, or competition. Except as otherwise provided in this subsection, a sports event does not include an amateur sporting or athletic event.

(14) "Sports proposition" means an aspect of a sports event that is offered to patrons to bet on, including:

(a) a full or partial outcome of a sports event, championship, tournament, or series of events, including point spreads, point totals, moneyline bets, parlay bets, teaser bets, pleaser bets, and if/then bets; and

(b) the outcome of nonstatistical or nonathletic events related to a sports event, the statistical performances of individual or multiple athletes in a sports event, or a combination of any of these factors.

(15) (a) "Sportsbook" means an operation by a sportsbook operator that conducts the business of sports betting via a physical sportsbook at the premises of a licensed gambling operator or via an interactive sports betting platform for use by a bettor who is inside the premises of a licensed gambling operator.

(b) The term does not include an interactive sports betting platform or its employees, a supplier, or a data provider.

(16) "Sportsbook operator" means an entity licensed by the department to conduct the business of sports

betting at a physical sportsbook located within the premises of a licensed gambling operator or via an interactive sports betting platform from within the premises of a licensed gambling operator.

(17) "Supplier" means a person licensed as an associated gambling business under Title 23, part 5, and [sections 1 through 18] that provides another licensee with equipment, goods, or services to carry out the business of sports betting, including, without limitation, account wagering equipment or systems, player tracking equipment or systems, bookmaking equipment or systems, call center equipment or systems, communications technology, and other equipment or associated equipment or systems involved with sports betting.

**Section 3. Department duties and powers -- rulemaking.** (1) In addition to the duties provided in [sections 1 through 18], the department has the sole authority to regulate all sportsbook betting in Montana. A sportsbook may be conducted only by a sportsbook operator licensed under [sections 1 through 18].

(2) The department shall adopt rules to implement [sections 1 through 18]. The rules must include further standards, beyond those in [sections 1 through 18], that address:

(a) the conduct of sports betting, including the acceptance and payout of sports bets on a sports event or a series of sports events;

(b) the manner in which odds are disclosed;

(c) maximum sports bets that may be accepted by a sportsbook operator from a single bettor on a single sports event;

(d) the type of bet slips that may be used;

(e) the method of issuing bet slips;

(f) the method of accounting used by sportsbook operators;

(g) the types of records that must be kept;

(h) the type of system for wagering;

(i) the acceptable method of funding a sports betting account consistent with the provisions of 23-5-157;

(j) the establishment of minimum internal control standards and approval of minimum internal control standards proposed by licensed sportsbook operators for administration of sports betting operations, betting equipment and systems, or other items used to conduct sports betting, as well as maintenance of financial records and other required records;

(k) offering sports betting via an interactive sports betting platform over the internet through a website

or through a mobile device to patrons located inside the premises of a licensed gambling operator;

(l) the responsible advertising of betting-related products and content across all media;

(m) the development and deployment of responsible gambling resources for bettors;

(n) ensuring game integrity through, among other obligations, the mandatory monitoring and reporting of suspicious betting activity;

(o) the use, suitability, and testing of betting-related equipment and systems, including interactive sports betting platforms;

(p) the investigation of suspicious betting activity identified by a licensee or another law enforcement or regulatory agency;

(q) the eligibility and suitability of sportsbook operators, interactive sports betting platform operators, and suppliers to hold a license;

(r) the use of global risk management;

(s) the adequacy of a sportsbook operator's surveillance systems that monitor sportsbook activity; and

(t) the maintenance and reporting of all betting-related financial records required by department rule.

(3) The department shall levy and collect all fees, surcharges, civil penalties, and quarterly tax on adjusted gross sports wagering receipts imposed by [sections 1 through 18] and promptly deposit all money with the department for credit to the sports betting fund as provided in [section 15].

(4) The department may enforce any provision of [sections 1 through 18] or of department rule by criminal or civil action or petition for injunctive relief as provided in 23-5-136.

(5) The department may hear complaints from the public, hold hearings, administer oaths, and issue subpoenas.

(6) The department has jurisdiction over disputes between bettors and sportsbook operators that must be conducted pursuant to the Montana Administrative Procedure Act, Title 2, chapter 4, part 6 or 7.

(7) The department shall adopt rules to further govern sports betting.

**Section 4. Authority to conduct betting.** (1) A person may not conduct sports betting or a sportsbook without first obtaining all necessary licenses in accordance with [sections 1 through 18] and administrative rules.

(2) Three types of licenses may be issued pursuant to [sections 1 through 18]:

(a) sportsbook operator;

- (b) platform operator; and
- (c) associated gambling business.

(3) The department shall announce its intention to accept applications for all license types, and the requirements for applications, before [the effective date of this act].

(4) A sportsbook operator may enter into revenue sharing agreements with platforms, route operators, associated gambling businesses, and gambling operators that hold appropriate licenses.

**Section 5. Application requirements and prohibitions.** (1) A person that wishes to conduct the business of sports betting shall apply to the department for a license.

(2) A person may not be issued a license until the department determines that the applicant meets all qualifications for licensure as set forth in [sections 1 through 18].

(3) An applicant for a license or permit shall submit an application to the department in the form the department requires.

(4) Except as otherwise provided in this subsection, the following persons and entities are prohibited from applying for a license or permit issued under [sections 1 through 18]:

- (a) an employee of the department;
- (b) a current professional, collegiate, electronic sports, or olympic:
  - (i) athlete;
  - (ii) coach, assistant coach, or team staffer;
  - (iii) official or referee; or
  - (iv) league or conference and associated employees;
- (c) an agent to players or coaches;
- (d) an employee of a professional team; and
- (e) an employee of a collegiate athletic department.

**Section 6. Sportsbook operator license -- criminal penalties -- fees.** (1) It is a felony for a person to conduct business as a sportsbook operator without first obtaining a sportsbook operator license from the department. A violation of this section is punishable in accordance with 23-5-162.

(2) The department shall charge an annual license fee of \$1,000 for issuing or renewing a sportsbook

operator license. The department shall retain the fee for administrative purposes.

(3) A sportsbook operator license expires June 30 of each year, and the license fee may not be prorated.

(4) The department may charge an additional, one-time license application processing fee. The department may collect an amount sufficient to reimburse the department for actual costs not completely covered by the initial fee charged.

(5) The department shall retain for administrative purposes the license and application processing fees collected under this section.

**Section 7. Sportsbook operator requirements.** (1) A sportsbook operator license granted by the department pursuant to [sections 1 through 18] grants the sportsbook operator authority to conduct sports betting in accordance with Title 23, chapter 5, and [sections 1 through 18].

(2) Only sports betting as authorized by [sections 1 through 18] is allowed in Montana.

(3) Upon receiving an applicant's completed application, payment of an application fee, and proof of satisfaction of the requirements for licensure under the provisions of Title 23, chapter 5, and [sections 1 through 18], the department shall immediately grant a sportsbook operator license to an applicant.

(4) (a) A gambling operator may not be licensed as a sportsbook operator.

(b) A gambling operator that offers sports betting at its licensed premises through a route operator licensed to operate sports betting is not acting as a sportsbook operator.

(5) An applicant shall submit to the department documentation or information the department requires to demonstrate that the applicant will meet the requirements of the law and department rules.

(6) A licensed sportsbook operator shall execute a surety bond or reserve account, in an amount and in the form approved by the department, to guarantee the sportsbook operator faithfully makes all payments in accordance with the provisions of [sections 1 through 18] and department rules.

(7) Upon application for a license and annually thereafter, a sportsbook operator shall submit to the department an audit of the financial transactions and condition of the sportsbook operator's total operations prepared by a certified public accountant in accordance with generally accepted accounting principles and applicable laws.

(8) A sportsbook operator shall demonstrate that its sportsbook will be accessible to disabled individuals in accordance with applicable federal and state laws.

**Section 8. Platform operator license -- fees.** (1) It is a felony for a person to conduct business as a platform operator without first obtaining a platform operator license from the department. A violation of this section is punishable in accordance with 23-5-162.

(2) The department shall charge a license fee of \$1,000 for issuing and for annually renewing a platform operator license.

(3) A platform operator license expires on June 30 of each year, and the license fee may not be prorated.

(4) The department may charge an additional, one-time license application processing fee to cover the actual cost of processing the original license. The department may collect an amount sufficient to reimburse the department for actual costs not completely covered by the initial fee charged.

(5) The department shall retain for administrative purposes all license fees and application processing fees collected under this section.

**Section 9. Platform operator requirements.** (1) A platform operator license granted by the department pursuant to [sections 1 through 18] grants a platform operator the authority to conduct the business of sports betting in Montana through an interactive sports betting platform in accordance with the terms and conditions of the license and rules promulgated under [sections 1 through 18].

(2) A sportsbook operator may own and operate its own platforms or contract with third-party platforms.

(3) A platform operator license applicant shall submit to the department the documentation or information the department requires to demonstrate that the applicant will meet the requirements of the law and department rules.

(4) The department shall adopt rules implementing technical standards for an interactive sports betting platform.

**Section 10. Sports betting associated gambling business requirements.** (1) The department may issue an associated gambling business license to a person to sell or lease sports betting equipment, systems, or other items necessary to conduct sports betting and to offer services related to that equipment or other items to a sportsbook operator.

(2) An associated gambling business license does not include the authority to supply an interactive



sports betting platform.

(3) The department may adopt rules establishing additional requirements for an associated gambling business and any system or other equipment used for betting other than a platform or a mobile or internet device operated by a bettor in order to access a platform.

(4) The department may accept licensure by another jurisdiction that it specifically determines to have similar licensure requirements as evidence the applicant meets associated gambling business requirements in this state.

(5) An applicant for an associated gambling business license shall demonstrate that the equipment, systems, or services that the applicant plans to offer to a sportsbook operator conform to standards established by the department and by applicable law. The department may accept approval by another jurisdiction that it specifically determines to have similar equipment standards as evidence the applicant meets the standards established by the department and by applicable law.

(6) An associated gambling business shall submit to the department a list of all sports betting equipment and services sold, delivered to, or offered to a sportsbook operator, all of which must be tested and approved by an independent testing laboratory approved by the department. A sportsbook operator may continue to use supplies acquired from a licensed associated gambling business, even if its license expires or is otherwise canceled, unless the department finds a defect in the supplies.

**Section 11. Violations.** (1) A violation of any of the conditions set forth in subsections (2) and (3) is a violation of suitability to conduct the business of sports betting and results in automatic suspension or revocation of any application or license pursuant to 23-5-162.

(2) A sportsbook operator may not offer sports betting in any form to U.S. customers or accept sports bets in any form from U.S. customers without first acquiring licensure to conduct sports betting in the state or tribal jurisdiction where a sports bet is placed and accepted unless the offer or acceptance is allowed by a sports betting agreement.

(3) A sportsbook operator may not place any form of sports bets, including layoff bets, with black-market sportsbooks.

**Section 12. Sportsbook duties and obligations.** (1) A sportsbook shall adopt comprehensive house

rules for game play governing sports betting by:

(a) specifying the procedures required to accept a sports bet and the amounts to be paid on winning bets;

(b) submitting the rules to the department for approval prior to implementation;

(c) publishing the rules as part of minimum internal control standards;

(d) conspicuously displaying the rules, together with any other information the department considers appropriate and the terms and conditions of each sportsbook operator's and platform's betting system; and

(e) making copies of the house rules readily available to patrons.

(2) A sportsbook shall promote responsible gaming by:

(a) clearly communicating:

(i) the legal betting age and prohibiting minors from engaging in any form of sports betting;

(ii) all house rules for game play governing sports betting transactions;

(iii) information concerning assistance for responsible play, including a toll-free number directing callers to reputable resources containing further information;

(b) employing geolocation technology to ensure a bettor who places a sports bet is located inside the premises of a licensed gambling operator in Montana at the time the bettor places a sports bet;

(c) limiting bettors to one account for each bettor;

(d) enabling bettors to exclude themselves from betting at any time and taking reasonable steps to prevent self-excluded bettors from sports betting; and

(e) ensuring that advertisements for sports propositions do not target individuals who are under 18 years of age.

(3) A sportsbook shall monitor the integrity of all sports propositions by:

(a) identifying a series of minimum internal indicators of potential suspicious or irregular sports betting activity;

(b) developing and sharing with the department those indicators;

(c) implementing technological requirements for integrity monitoring and for monitoring specific indicators of potential suspicious activity as mandated by the department pursuant to industry standards;

(d) employing a monitoring system utilizing software to identify irregularities in volume or odds swings that could signal suspicious activities requiring further investigation, which must be immediately reported and

investigated by the department. System requirements and specifications must be developed in accordance with industry standards and implemented by the department; and

(e) implementing any other requirements as developed through rules promulgated by the department.

(4) A sportsbook may not, unless ordered by a court or by state or federal law enforcement authorities pursuant to an investigation, divulge or communicate any personally identifiable customer information obtained through conducting the business of sports betting. This information does not include anonymized, numeric betting information or any other anonymized information reported to the department for integrity monitoring purposes.

(5) A sportsbook operator shall promptly report to the department any facts or circumstances obtained by any employee at any time related to a Montana licensee that the sportsbook operator reasonably knows to constitute a violation of state or federal law.

(6) A sportsbook shall hold the department and the state harmless from and defend and pay for the defense of any and all claims that may be asserted against a licensee, the department or its employees, or the state of Montana arising from the licensee's conducting of the business of sports betting.

(7) A sportsbook shall ensure that:

(a) sports betting conducted via a sportsbook operator at the sportsbook or a kiosk is within the sight and control of designated employees of the gambling operator and conducted under continuous observation by surveillance or security equipment in conformity with specifications and requirements established by the department by rule; and

(b) sports betting conducted via a platform may be monitored in real time by designated employees of the licensee and conducted under observation in conformity with specifications and requirements established by the department by rule.

(8) A sportsbook shall maintain sufficient money and other supplies to conduct sports betting at all times and ensure bettor funds are held separately from operational funds.

(9) A sportsbook shall maintain daily records showing gross sports betting receipts and adjusted gross sports betting receipts from all sports betting conducted and shall file with the department any additional reports required by rule or by other provisions of this title.

(10) A sportsbook shall take every reasonable measure to prohibit the following persons from placing a sports bet, facilitating a bet, or receiving a payout from a bet:

(a) an employee of the division;

- (b) an individual under 18 years of age;
- (c) an individual or institutional sportsbook license holder, or any applicant for a license;
- (d) a bettor that an individual sportsbook or the department has determined to be prohibited from betting at any Montana sportsbook; and
- (e) anyone placing a messenger bet on behalf of any of the parties listed in this subsection.

**Section 13. Requirements for betting authorization.** (1) A sportsbook may accept sports bets on sports events or on other sporting-related events as permitted by the department pursuant to rules established under [sections 1 through 18] only from persons physically located within the premises of a gambling operator who bet through a platform using a sports betting account that is operated by a sportsbook operator.

(2) The intermediate routing of electronic data in connection with sports betting may not determine the location or locations in which a sports bet is initiated, received, or otherwise made.

(3) A sportsbook shall employ approved geolocation technology to ensure a bettor who places a sports bet via a platform is located inside the premises of a licensed gaming operation.

(4) A sportsbook may not accept a sports bet from an individual under 18 years of age.

(5) A sportsbook may ban any person from participating in sports betting at its sportsbook.

(6) The department shall adopt rules implementing the provisions of this section.

**Section 14. Taxes and fees.** (1) The department shall quarterly collect from each licensed sportsbook operator 8.5% of the sportsbook operator's adjusted gross sports betting receipts. The department shall use the accrual method of accounting for purposes of calculating the amount of tax owed by the sportsbook operator.

(2) A sportsbook operator shall pay an annual fee of \$100 for each kiosk placed with a gambling operator.

(3) The tax collected pursuant to this section is due and payable to the department in quarterly installments. Payments are due 15 days after the end of each quarter in a manner prescribed by the department.

(4) The sportsbook operator shall complete and submit payments for the preceding quarter by electronic communication to the department within 15 days after the end of each quarter, in a form that the department requires. The submission must include:

- (a) gross sports betting receipts and adjusted gross sports betting receipts from the preceding quarterly

period;

(b) the amount of tax for which the sportsbook operator is liable; and

(c) information illustrating the computation of the tax amount.

(5) When adjusted gross sports betting receipts for a quarterly period are a negative number because the winnings paid to bettors betting on the sportsbook operator's sports propositions exceed the sportsbook operator's gross receipts from sports betting by bettors on those sports propositions, the sportsbook operator may carry over the negative amount to returns filed for subsequent quarters. The negative amount of adjusted gross sports betting receipts may not be carried back to an earlier quarter.

**Section 15. Sports betting fund and distribution.** (1) There is an account in the state special revenue fund known as the Montana sports betting fund.

(2) All taxes collected under [sections 1 through 18] must be deposited with the department of justice for credit to the sports betting fund.

(3) The fund is an interest-bearing account with all interest or other return earned on the money in the fund credited to and deposited in the fund.

(4) All expenses of the department incurred in the administration and enforcement of [sections 1 through 18] must be paid from the sports betting fund.

(5) The department shall deduct from the gross deposits into the sports betting fund an amount sufficient to reimburse its actual costs and expenses incurred in administering sports betting. The amount remaining after the deduction for administrative expenses is the net sports betting tax revenue.

(6) In addition to the amount deducted in subsection (5), the department may retain up to 15% of the gross deposits to fund operations and administrative expenses. In the event that the percentage allotted for operations and administration generates a surplus, the surplus must be allowed to accumulate but may not exceed \$250,000. On an annual basis, the department shall report to the governor any surplus in excess of \$250,000 and remit the entire amount of those surplus funds in excess of \$250,000 to the state general fund.

**Section 16. Bettor disputes.** (1) (a) Subject to subsection (1)(b), when a bettor and a sportsbook operator have a dispute relating to a sports bet that cannot be resolved to the satisfaction of the bettor and the sportsbook operator, the parties shall resolve the dispute through an informal mediation process in accordance

with rules adopted by the department.

(b) The dispute process in subsection (1)(a) applies to disputes:

(i) relating to:

(A) alleged winnings or losses;

(B) the award or distribution of cash or items of value; or

(C) the manner in which sports betting is conducted; and

(ii) in which the amount in controversy is \$500 or less.

(2) For disputes in which the amount in controversy is greater than \$500, the sportsbook operator shall immediately notify the department of the dispute. Upon being notified of a dispute, the department shall conduct an investigation and determine whether payment should be made. The department shall mail written notice to the sportsbook operator and the bettor of the department's decision resolving the dispute within 45 days after the date the department first receives notification from the sportsbook operator or a request to conduct an investigation from the bettor. The failure of the department to mail notice of the decision within the time required by this subsection does not relieve the department of its authority to resolve the dispute.

(3) The decision of the department is effective on the date the aggrieved party receives notice of the decision. Notice of the decision is sufficient if it is mailed to the last-known addresses of the sportsbook operator and bettor. The date of mailing may be confirmed by a certificate signed by an employee of the department that specifies the time the notice was mailed. The notice is considered to have been received by the aggrieved party 5 days after it is deposited in the United States mail with the postage on the notice prepaid.

(4) Within 20 days after receiving notice of the written decision of the department, the aggrieved party may file a petition with the department requesting a hearing to reconsider the decision. The petition must set forth the basis of the request for reconsideration. If a petition for reconsideration is not filed within the time prescribed, the decision is the final action on the matter and is not subject to reconsideration by the department or any court.

(5) The aggrieved party shall provide a copy of the petition to the other party.

(6) Within 15 days after filing the petition, the responding party may answer the allegations by filing a written response with the department.

(7) The department shall schedule a hearing and shall conduct the hearing in accordance with the Montana Administrative Procedure Act, Title 2, chapter 4, parts 6 and 7.

(8) The party seeking reconsideration bears the burden of showing that the department's decision should

be reversed or modified. After the hearing, the department or the hearing examiner may sustain, modify, or reverse the department's decision. The decision by the department or the hearing examiner must be in writing and must include findings of fact. A copy of the decision must be delivered or mailed to each party. The decision is final 5 days after the date the parties receive the decision.

(9) A sportsbook operator shall pay a bettor's claim within 20 days after a decision of the department or the hearing examiner directing the sportsbook operator to do so becomes final. Failure to pay within the required time is grounds for disciplinary action.

**Section 17. Shipment of gambling devices.** All shipments of sports betting supplies, including devices and related materials, to licensed sportsbook operators in Montana are legal shipments of gambling devices if the registering, recording, and labeling of the supplies have been completed by the supplier in accordance with 15 U.S.C. 1171 through 1178.

**Section 18. Exemption from federal law.** Pursuant to 15 U.S.C. 1172, the legislature declares and proclaims that the state of Montana is exempt from 15 U.S.C. 1171 through 1178.

**Section 19.** Section 23-5-110, MCA, is amended to read:

**"23-5-110. Public policy of state concerning gambling.** (1) The legislature finds that for the purpose of ensuring the proper gambling environment in this state it is necessary and desirable to adopt a public policy regarding public gambling activities in Montana. The legislature therefore declares it is necessary to:

(a) create and maintain a uniform regulatory climate that assures players, owners, tourists, citizens, and others that the gambling industry in this state is fair and is not influenced by corrupt persons, organizations, or practices;

(b) protect legal public gambling activities from unscrupulous players and vendors and detrimental influences;

(c) protect the public from unscrupulous proprietors and operators of gambling establishments, games, and devices;

(d) protect the state and local governments from those who would conduct illegal gambling activities that deprive those governments of their tax revenues;

(e) protect the health, safety, and welfare of all citizens of this state, including those who do not gamble, by regulating gambling activities; and

(f) promote programs necessary to provide assistance to those who are adversely affected by legalized gambling, including compulsive gamblers and their families.

(2) The legislature adopts the policy that an applicant for a license or permit or other department approval under parts 1 through 8 and [sections 1 through 18] of this chapter does not have a right to the issuance of a license or permit or the granting of the approval sought. The issuance of a license or permit issued or other department approval granted pursuant to the provisions of parts 1 through 8 and [sections 1 through 18] of this chapter is a privilege revocable only for good cause. A holder does not acquire a vested right in the license or permit issued or other department approval granted. A license or permit issued under parts 1 through 8 and [sections 1 through 18] of this chapter may not be sold, assigned, leased, or transferred.

(3) Revenue to fund the expense of administration and control of gambling as regulated by parts 1 through 8 of this chapter must be derived solely from fees, taxes, and penalties on gambling activities, except the gambling activities of the Montana state lottery and the parimutuel industry."

**Section 20.** Section 23-5-111, MCA, is amended to read:

**"23-5-111. Construction and application.** In view of Article III, section 9, of the Montana constitution, parts 1 through 8 and [sections 1 through 18] of this chapter must be strictly construed by the department and the courts to allow only those types of gambling and gambling activity that are specifically and clearly allowed by those parts."

**Section 21.** 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 and [sections 1 through 18] 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.

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

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

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

- (a) authorized by permit and made available to the public on the premises of a licensed gambling operator; or
- (b) operated by a senior citizen center.

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

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

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

(12) "Distributor" means a person who:

- (a) purchases or obtains from a licensed manufacturer, distributor, route operator, or operator equipment of any kind for use in gambling activities; and
- (b) sells the equipment to a licensed manufacturer, distributor, route operator, or operator.

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

(b) The term does not mean conducting or participating in:

- (i) promotional games of chance;
- (ii) amusement games regulated by Title 23, chapter 6, part 1; or
- (iii) social card games of bridge, cribbage, hearts, pinochle, pitch, rummy, solo, and whist played solely for prizes of minimal value, as defined by department rule.

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

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

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

(b) The term does not mean:

- (i) a cash or merchandise attendance prize or premium that county fair commissioners of agricultural fairs and rodeo associations may give away at public drawings at fairs and rodeos;
- (ii) a promotional game of chance;
- (iii) an amusement game regulated under Title 23, chapter 6;
- (iv) a savings promotion raffle offered by a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business and accept deposits in this state under state or federal law and conducted in compliance with 23-5-413 that entitles individual members or depositors equal chances to win a designated prize by depositing a sum of money during a specified savings period; or
- (v) an entry into a raffle as a result of paying membership dues or making a purchase of an item offered during a fundraising event held by a nonprofit organization.

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

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

contractor, or dealer to participate in a card game.

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

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

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

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

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

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

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

~~(c)~~ credit gambling; and

~~(d)~~ internet gambling.

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

(b) The term does not include the operation of a simulcast facility or advance deposit wagering with a

licensed advance deposit wagering hub operator allowed by Title 23, chapter 4, the state lottery provided for in Title 23, chapter 7, or a raffle authorized under Title 23, chapter 5, part 4, that is sponsored by a nonprofit organization and that is registered with the department, or sports betting under [sections 1 through 18]. If all aspects of the gaming are conducted on Indian lands in conformity with federal statutes and with administrative regulations of the national Indian gaming commission, the term does not include class II gaming or class III gaming as defined by 25 U.S.C. 2703.

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

~~(23)~~(23) "Keno caller" means a person 18 years of age or older who, using authorized equipment, announces 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 not legal in Montana, sports tab game seller, sportsbook operator, platform operator, associated gambling business, manufacturer of electronic live bingo or keno equipment, other manufacturer, distributor, or route operator that is issued to a person by the department.

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

~~(26)~~(26) "Live card game" or "card game" means a card game that is played in public between persons on 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 among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance.

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

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

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

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

or

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

(d) provides goods or services that are contained within a sports betting platform; or

(e) assembles or provides a kiosk for the purposes of sports betting.

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

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

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

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

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

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

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

- (a) a place, building, or conveyance to which the public has access or may be permitted to have access;
- (b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization; or

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

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

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

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

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

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

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

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

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

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

**Section 22.** Section 23-5-113, MCA, is amended to read:

**"23-5-113. Department as criminal justice agency.** The department is a criminal justice agency whose designated agents are granted peace officer status, with the power of search, seizure, and arrest. Agents are authorized to investigate gambling activities in this state regulated by parts 1 through 8 and [sections 1 through

18] of this chapter and the rules of the department, to report violations to the county attorney of the county in which they occur, to investigate and report on activities related to liquor and tobacco administration under Title 16, and to act as appointed by the attorney general."

**Section 23.** Section 23-5-114, MCA, is amended to read:

**"23-5-114. Department employees -- activities prohibited.** (1) An employee of the department directly involved with the prosecution, investigation, regulation, or licensing of gambling, as designated by the attorney general, may not:

(a) serve as an officer of a business or organization that conducts a gambling activity, other than as an officer of a nonprofit organization;

(b) be employed by a licensed operator in any capacity that requires assisting in conducting a gambling activity regulated under parts 1 through 6 and [sections 1 through 18] of this chapter or maintaining records for the gambling activity;

(c) have a beneficial or pecuniary interest in a contract for the manufacture, lease, or sale of a gambling device, the conduct of a gambling activity, or the provision of independent consultant services in connection with a gambling activity; or

(d) participate in a gambling activity governed by parts 1 through 6 of this chapter, except in performing assigned employment duties. An employee may participate in a gambling activity governed by chapter 4 or 7 of this title.

(2) The prohibitions in subsections (1)(a) through (1)(c) apply to a former designated department employee during the first year following termination from employment with the department if the employee was directly involved with the prosecution, investigation, regulation, or licensing of gambling immediately before termination."

**Section 24.** Section 23-5-115, MCA, is amended to read:

**"23-5-115. Powers and duties of department -- licensing.** (1) The department shall administer the provisions of parts 1 through 8 and [sections 1 through 18] of this chapter.

(2) The department shall adopt rules to administer and implement parts 1 through 8 and [sections 1 through 18] of this chapter.

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

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

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

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

(7) The department may suspend, revoke, deny, or place a condition on a license issued under parts 1 through 8 and [sections 1 through 18] of this chapter.

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

(9) The department shall assess, collect, and disburse any fees, taxes, or charges authorized under parts 1 through 8 and [sections 1 through 18] of this chapter."

**Section 25.** Section 23-5-116, MCA, is amended to read:

**"23-5-116. Disclosure of information.** (1) The department shall, upon request, disclose information concerning a current or former gambling license applicant or gambling licensee or any other person engaged in gambling or a gambling activity governed by parts 1 through 8 and [sections 1 through 18] of this chapter, except:

- (a) confidential criminal justice information, as defined in 44-5-103;
- (b) personal information protected by an individual privacy interest;
- (c) trade secrets, as defined in 30-14-402, specifically identified and for which there are reasonable grounds of privilege asserted by the party claiming the privilege; and
- (d) information obtained in the tax reporting processes.

(2) Notwithstanding the limitations set forth in subsection (1), the department may disclose any



information obtained in the application or tax reporting process or as a result of other department operations to:

- (a) a federal, state, city, county, or tribal criminal justice agency;
- (b) the department of revenue and the federal internal revenue service; and
- (c) a gambling regulatory agency of another state, a local government unit of another state, a tribal government, or a foreign nation, provided that the disclosure of the information complies with the law of that jurisdiction and that the receiving entity has been approved for receipt by the Montana attorney general.

(3) In the event of a tax delinquency or at the request of a video gambling machine permitholder, the department shall inform the permitholder of the status of a licensed machine owner's tax payments for a video gambling machine located at the permitholder's place of business."

(3) In the event of a tax delinquency or at the request of a video gambling machine permitholder, the department shall inform the permitholder of the status of a licensed machine owner's tax payments for a video gambling machine located at the permitholder's place of business."

**Section 26.** Section 23-5-118, MCA, is amended to read:

**"23-5-118. Transfer of ownership interest -- definitions.** (1) In this section, "licensed gambling operation" means a business for which a license was obtained under parts 1 through 8 and [sections 1 through 18] of this chapter.

(2) Except as provided in subsection (3), an owner of an interest in a licensed gambling operation shall notify the department in writing and receive approval from the department before transferring any ownership interest in the operation.

(3) This section does not apply to the transfer of a security interest in a licensed gambling operation under the requirements of subsection (4) or to the transfer of less than 5% of the interest in a publicly traded corporation.

(4) A regulated lender, as defined in 31-1-111, may obtain a security interest in the assets of a licensed gambling operation to secure a loan or a guaranty of a loan. A regulated lender may use loan and collateral documentation and loan and collateral structure consistent with that used by the regulated lender in commercial loans generally, and the documentation and structure used by the lender do not create an undisclosed ownership interest in the licensee's business by a coborrower or guarantor if the department determines the borrower, coborrower, guarantor, and owner or owners of the assets pledged as collateral meet the requirements of 23-5-176. As used in this subsection (4), permissible loan and collateral structuring includes but is not limited to permitting owners and nonowners of a licensed gambling operation to:

- (a) be coborrowers of a borrower's loan;

(b) be guarantors of a borrower's loan, with or without a requirement that the regulated lender exhaust remedies against the borrower before collecting from the guarantor; or

(c) pledge assets as collateral for a borrower's loan or for a guaranty of a borrower's loan.

(5) When a licensee is the borrower, an owner of the licensee may make a payment on the institutional loan. If a payment is made under this subsection (5):

(a) the licensee must notify the department within 90 days that the payment was made and designate whether the payment will be treated as a loan or an equity investment as follows:

(i) for a payment treated as a loan, the licensee must memorialize the loan by a written agreement, which must be provided to the department; or

(ii) for a payment treated as an equity investment, if a change in ownership percentage occurs as a result, the licensee must follow department requirements for disclosing changes in ownership percentages; and

(b) the funds used for the payment must be the party's own funds or funds borrowed from an institutional lender.

(6) If a borrower, coborrower, or guarantor is not the licensee or an owner of the licensee, the coborrower or guarantor may make a payment on the institutional loan, and the payment does not create an undisclosed ownership in the licensee's business by the borrower, coborrower, or guarantor only if:

(a) the licensee notifies the department within 90 days that the payment was made;

(b) the payment is made as a loan that is memorialized by a written agreement; and

(c) the funds used for the payment are the coborrower's or guarantor's own funds or funds borrowed from an institutional lender.

(7) A regulated lender that obtains a security interest in the assets of a licensed gambling operation has no duty to ensure a coborrower's or guarantor's compliance with the requirements of subsection (5) or (6) in connection with loan or guaranty payments it may receive from the coborrower or guarantor.

(8) For the purposes of subsections (5) and (6), the term "borrower" means the party that is primarily responsible for making payments and that receives the funds or on whose behalf the funds were paid."

**Section 27.** Section 23-5-119, MCA, is amended to read:

**"23-5-119. Appropriate alcoholic beverage license for certain gambling activities.** (1) Except as provided in subsection (3), to be eligible to offer gambling under Title 23, chapter 5, part 3, 5, ~~or~~ 6, or [sections

1 through 18] an applicant must own in the applicant's name:

(a) a retail all-beverages license issued under 16-4-201, but the owner of a license transferred after July 1, 2007, pursuant to 16-4-204 is not eligible to offer gambling;

(b) except as provided in subsection (1)(c), a license issued prior to October 1, 1997, under 16-4-105, authorizing the sale of beer and wine for consumption on the licensed premises;

(c) a beer and wine license issued in an area outside of an incorporated city or town as provided in 16-4-105(1)(f). The owner of the license whose premises are situated outside of an incorporated city or town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, ~~or 6~~, or [sections 1 through 18].

(d) a retail beer and wine license issued under 16-4-109;

(e) a retail all-beverages license issued under 16-4-202; or

(f) a retail all-beverages license issued under 16-4-208.

(2) For purposes of subsection (1)(b), a license issued under 16-4-105 prior to October 1, 1997, may be transferred to a new owner or to a new location or transferred to a new owner and location by the department of revenue pursuant to the applicable provisions of Title 16. The owner of the license that has been transferred may offer gambling if the owner and the premises qualify under Title 23, chapter 5, part 3, 5, ~~or 6~~, or [sections 1 through 18].

(3) Lessees of retail all-beverages licenses issued under 16-4-208 or beer and wine licenses issued under 16-4-109 who have applied for and been granted a gambling operator's license under 23-5-177 are eligible to offer and may be granted permits for gambling authorized under Title 23, chapter 5, part 3, 5, ~~or 6~~, or [sections 1 through 18].

(4) A license transferee or a qualified purchaser operating pending final approval under 16-4-404(6) who has been granted a gambling operator's license under 23-5-177 may be granted permits for gambling under Title 23, chapter 5, part 3, 5, ~~or 6~~, or [sections 1 through 18]."

**Section 28.** Section 23-5-123, MCA, is amended to read:

**"23-5-123. Disposal of fines and penalties for violation of gambling laws.** All fines and penalties collected by criminal, civil, or administrative process for a violation of a provision of parts 1 through 8 and [sections 1 through 18] of this chapter or a rule of the department must be deposited in the state general fund."

**Section 29.** Section 23-5-128, MCA, is amended to read:

**"23-5-128. Distributor's license -- fees.** (1) It is a misdemeanor for a person to conduct business as a distributor without first obtaining a distributor's license from the department.

(2) Except as provided in subsection (6), the department shall charge an annual license fee of \$1,000 for issuing or renewing a distributor's license. The department shall retain the fee for administrative purposes.

(3) A distributor's license expires June 30 of each year, and the license fee may not be prorated.

(4) Except as provided in subsection (6), the department may charge an additional, one-time license application processing fee to cover the actual cost of processing the original license. ~~The department shall refund any amount of the application processing fee not needed to reimburse the~~ The department for actual costs or shall collect an amount sufficient to reimburse the department for actual costs not completely covered by the initial fee charged.

(5) The department shall retain for administrative purposes the license and application processing fees collected under this section.

(6) The department may waive the license fee provided for in subsection (2) if the applicant is licensed as a manufacturer or route operator and may waive the application processing fee provided for in subsection (4) if the applicant is licensed as a manufacturer, route operator, or operator."

**Section 30.** Section 23-5-129, MCA, is amended to read:

**"23-5-129. Route operator's license -- fees.** (1) It is a misdemeanor for a person to conduct business as a route operator without first obtaining a route operator's license from the department.

(2) Except as provided in subsection (6), the department shall charge an annual license fee of \$1,000 for issuing or renewing a route operator's license. The department shall retain the fee for administrative purposes.

(3) A route operator's license expires June 30 of each year, and the license fee may not be prorated.

(4) Except as provided in subsection (6), the department may charge an additional, one-time license application processing fee to cover the actual cost of processing the original license. ~~The department shall refund any amount of the application processing fee not needed to reimburse the~~ The department for actual costs or shall collect an amount sufficient to reimburse the department for actual costs not completely covered by the initial fee charged.

(5) The department shall retain for administrative purposes the license and application processing fees collected under this section.

(6) The department may waive the license fee provided for in subsection (2) if the applicant is licensed as a manufacturer or distributor and may waive the application processing fee provided for in subsection (4) if the applicant is licensed as a manufacturer, distributor, or operator."

**Section 31.** Section 23-5-130, MCA, is amended to read:

**"23-5-130. Allowable compensation for route operator.** (1) The compensation that a licensed route operator may receive for leasing a video gambling machine to a licensed operator is limited to a set fee or a percentage of gross machine income, or both a set fee and percentage amount. The route operator may not assume responsibility for any expenses of the operator's business except for expenses associated with:

- ~~(1)~~(a) paying video gambling machine permit fees and taxes;
- ~~(2)~~(b) conducting video gambling machine promotional activities;
- ~~(3)~~(c) maintaining and repairing video gambling machines;
- ~~(4)~~(d) supplying funds to allow an operator to exchange a player's money for other coin or currency for operating a video gambling machine and to pay out prizes won by players;
- ~~(5)~~(e) providing accounting and recordkeeping services for video gambling machines; and
- ~~(6)~~(f) other activities, if allowed by department rule.

(2) A route operator may receive compensation from a licensed sportsbook operator for maintenance of sports betting kiosks limited to a set fee or a percentage of gross kiosk income, or both a set fee and percentage amount. The route operator may not assume responsibility for any expenses of the sportsbook operator's business."

**Section 32.** Section 23-5-136, MCA, is amended to read:

**"23-5-136. Injunction and other remedies.** (1) If a person has engaged or is engaging in an act or practice constituting a violation of a provision of parts 1 through 8 and [sections 1 through 18] of this chapter or a rule or order of the department, the department may:

- (a) upon clear and convincing evidence, issue a temporary order to cease and desist from the gambling activity, act, or practice for a period not to exceed 60 days;

(b) following notice and an opportunity for hearing, and with the right of judicial review, under the Montana Administrative Procedure Act:

(i) issue a permanent order to cease and desist from the act or practice, which order remains in effect pending judicial review;

(ii) place a licensee on probation;

(iii) suspend for a period not to exceed 180 days a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;

(iv) revoke a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;

(v) impose a civil penalty not to exceed \$10,000 for each violation, whether or not the person is licensed by the department; and

(vi) impose any combination of the penalties contained in this subsection (1)(b); and

(c) bring an action in district court for relief against the act or practice. The department may not be required to post a bond. On proper showing, the court may:

(i) issue a restraining order, a temporary or permanent injunction, or other appropriate writ;

(ii) suspend or revoke a license or permit; and

(iii) appoint a receiver or conservator for the defendant or the assets of the defendant.

(2) The department may issue a warrant for distraint against an operator who fails to pay a civil penalty imposed under subsection (1) or a tax imposed under 23-5-409 or 23-5-610. The department may issue the warrant for the amount of the unpaid penalty or for the amount of the unpaid tax, plus penalty and accumulated interest on the tax, and shall follow the procedures provided in 15-1-701 through 15-1-708.

(3) (a) A civil penalty imposed under this section must be collected by the department and distributed as provided in 23-5-123.

(b) If a person fails to pay the civil penalty, the amount due is a lien on the person's licensed premises and gambling devices in the state and may be recovered by the department in a civil action."

**Section 33.** Section 23-5-138, MCA, is amended to read:

**"23-5-138. Evidence in administrative proceedings.** When conducting an administrative proceeding under parts 1 through 8 and [sections 1 through 18] of this chapter, the department may consider hearsay

evidence approved by the hearing examiner in a prehearing conference at which a determination is made that the evidence possesses sufficient guaranties of trustworthiness and does not involve a question of the credibility of a witness or of the credibility of a witness's subjective observations or analysis."

**Section 34.** Section 23-5-161, MCA, is amended to read:

**"23-5-161. Criminal liabilities -- misdemeanor.** A person who purposely or knowingly violates a provision of parts 1 through 8 and [sections 1 through 18] of this chapter, the punishment of which is for a misdemeanor, shall upon conviction of a first offense be fined not more than \$500. Upon a second conviction within 5 years of a first conviction, a person shall be fined not more than \$1,000 or imprisoned in the county jail for not more than 6 months, or both. Upon a third conviction within 5 years of a second conviction, a person shall be fined not more than \$10,000 or imprisoned in the county jail for not more than 1 year, or both. Upon a fourth conviction within 5 years of a third conviction, a person shall be fined not more than \$10,000 or imprisoned in the county jail for not more than 1 year, or both, and the department shall revoke all licenses and permits the person holds under parts 1 through 8 and [sections 1 through 18] of this chapter and the person is forever barred from receipt of any license or permit under this chapter. When 5 years have passed following a conviction, the record of that conviction may be made available only to criminal justice agencies or upon court order."

**Section 35.** Section 23-5-162, MCA, is amended to read:

**"23-5-162. Criminal liabilities -- felony.** (1) A person who purposely or knowingly violates a provision of parts 1 through 8 and [sections 1 through 18] of this chapter, the punishment for which is a felony, may upon conviction be fined not more than \$50,000 or imprisoned for not more than 10 years, or both, for each violation.

(2) In addition to any penalty imposed under subsection (1), the department shall revoke all licenses or permits issued to the person under parts 1 through 8 and [sections 1 through 18] of this chapter and may not issue the person another license or permit under parts 1 through 8 and [sections 1 through 18] of this chapter."

**Section 36.** Section 23-5-172, MCA, is amended to read:

**"23-5-172. Prosecution.** The county attorney of the county in which a violation of a provision of parts 1 through 8 and [sections 1 through 18] of this chapter occurs shall prosecute all gambling actions within the jurisdiction of the department. However, if the county attorney declines prosecution or fails to commence an

action within a reasonable time, the attorney general may initiate and conduct the prosecution on behalf of the state."

**Section 37.** Section 23-5-177, MCA, is amended to read:

**"23-5-177. Operator of gambling establishment -- license -- fee.** (1) Except as provided in 23-5-310 and 23-5-410, it is a misdemeanor for a person who is not licensed by the department as an operator to make available to the public for play a gambling device or gambling enterprise for which a permit must be obtained from the department.

(2) To obtain an operator's license, a person shall submit to the department:

(a) a completed operator's license application on a form prescribed and furnished by the department;

(b) the person's fingerprints and, if the applicant is a corporation, the fingerprints of each person holding 10% or more of the outstanding stock of the corporation and of each officer and director of the corporation, to be used for a fingerprint and background check that must be used by the department in determining eligibility for a license;

(c) any other relevant information requested by the department; and

(d) a license application processing fee, as required in subsection (8).

(3) Before issuing an operator's license, the department shall approve, in accordance with 23-5-117, the premises in which the gambling activity is to be conducted.

(4) Except as provided in 23-5-117, regardless of the number of on-premises alcoholic beverage licenses issued for a premises, the department may issue only one operator's license for the premises.

(5) An operator's license must include the following information:

(a) a description of the premises upon which the gambling will take place;

(b) the operator's name;

(c) a description of each gambling device or card game table for which a permit has been issued to the operator by the department for play upon the premises, including the type of game and permit number for each game; and

(d) any other relevant information determined necessary by the department.

(6) The operator's license must be issued annually along with all other permits for gambling devices or games issued to the operator.



(7) The operator's license must be updated each time a video gambling machine, bingo, keno, or card game table permit is newly issued or the machine or game is removed from the premises.

(8) The department shall charge an applicant who has submitted an operator's license application on or after July 1, 1991, a one-time license application processing fee to cover the actual cost incurred by the department in determining whether the applicant qualifies for licensure under 23-5-176. ~~After making its determination, the department shall refund any overpayment or charge and collect amounts sufficient to reimburse the department for any underpayment of actual costs.~~

(9) The operator's license must be prominently displayed upon the premises for which it is issued."

**Section 38.** Section 23-5-178, MCA, is amended to read:

**"23-5-178. Associated gambling business.** (1) The department may adopt rules for the licensing of associated gambling businesses, including but not limited to accounting software vendors, goods and services associated with sports betting, and video gambling machine recyclers.

(2) The licensing of an associated gambling business may consider only the legality of the product being sold and the suitability of the owners of the business as provided in 23-5-176.

(3) The annual fee for an associated gambling business license is \$100."

**Section 39. Codification instruction.** [Sections 1 through 18] are intended to be codified as an integral part of Title 23, chapter 5, and the provisions of Title 23, chapter 5, apply to [sections 1 through 18].

**Section 40. Coordination instruction.** (1) If House Bill No. 475 and [this act] are passed and approved, then [section 7] of this act must be amended as follows:

**"NEW SECTION. Section 7. Sportsbook operator requirements.** (1) A sportsbook operator license granted by the department pursuant to [sections 1 through 18] grants the sportsbook operator authority to conduct sports betting in accordance with Title 23, chapter 5, and [sections 1 through 18].

(2) Only sports betting as authorized by [sections 1 through 18] or under Title 23, chapter 4, is allowed in Montana.

(3) Upon receiving an applicant's completed application, payment of an application fee, and proof of satisfaction of the requirements for licensure under the provisions of Title 23, chapter 5, and [sections 1 through

18], the department shall immediately grant a sportsbook operator license to an applicant.

(4) (a) A gambling operator may not be licensed as a sportsbook operator.

(b) A gambling operator that offers sports betting at its licensed premises through a route operator licensed to operate sports betting is not acting as a sportsbook operator.

(5) An applicant shall submit to the department documentation or information the department requires to demonstrate that the applicant will meet the requirements of the law and department rules.

(6) A licensed sportsbook operator shall execute a surety bond or reserve account, in an amount and in the form approved by the department, to guarantee the sportsbook operator faithfully makes all payments in accordance with the provisions of [sections 1 through 18] and department rules.

(7) Upon application for a license and annually thereafter, a sportsbook operator shall submit to the department an audit of the financial transactions and condition of the sportsbook operator's total operations prepared by a certified public accountant in accordance with generally accepted accounting principles and applicable laws.

(8) A sportsbook operator shall demonstrate that its sportsbook will be accessible to disabled individuals in accordance with applicable federal and state laws."

(2) If House Bill No. 475 is passed and approved, then section 10 of House Bill No. 475, amending 23-5-112, is void.

**Section 41. Coordination instruction.** If House Bill No. 725 and [this act] are passed and approved, then [section 7] of this act must be amended as follows:

**"NEW SECTION. Section 7. Sportsbook operator requirements.** (1) A sportsbook operator license granted by the department pursuant to [sections 1 through 18] grants the sportsbook operator authority to conduct sports betting in accordance with Title 23, chapter 5, and [sections 1 through 18].

(2) Only sports betting as authorized by [sections 1 through 18] or under Title 23, chapter 7, is allowed in Montana.

(3) Upon receiving an applicant's completed application, payment of an application fee, and proof of satisfaction of the requirements for licensure under the provisions of Title 23, chapter 5, and [sections 1 through 18], the department shall immediately grant a sportsbook operator license to an applicant.

(4) (a) A gambling operator may not be licensed as a sportsbook operator.

(b) A gambling operator that offers sports betting at its licensed premises through a route operator licensed to operate sports betting is not acting as a sportsbook operator.

(5) An applicant shall submit to the department documentation or information the department requires to demonstrate that the applicant will meet the requirements of the law and department rules.

(6) A licensed sportsbook operator shall execute a surety bond or reserve account, in an amount and in the form approved by the department, to guarantee the sportsbook operator faithfully makes all payments in accordance with the provisions of [sections 1 through 18] and department rules.

(7) Upon application for a license and annually thereafter, a sportsbook operator shall submit to the department an audit of the financial transactions and condition of the sportsbook operator's total operations prepared by a certified public accountant in accordance with generally accepted accounting principles and applicable laws.

(8) A sportsbook operator shall demonstrate that its sportsbook will be accessible to disabled individuals in accordance with applicable federal and state laws."

**Section 42. Effective date.** [This act] is effective June 1, 2020.

- END -

I hereby certify that the within bill,  
SB 0330, originated in the Senate.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

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Secretary of the Senate

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

SENATE BILL NO. 330

INTRODUCED BY M. BLASDEL, K. BOGNER, E. BUTTREY, S. FITZPATRICK, W. GALT, G. HERTZ,  
C. KNUDSEN, R. LYNCH, F. MANDEVILLE, S. MORIGEAU, C. SCHREINER, R. WEBB

AN ACT GENERALLY REVISING GAMBLING LAWS; CREATING THE MONTANA SPORTS BETTING ACT; PROVIDING AUTHORITY FOR CERTAIN ENTITIES TO CONDUCT SPORTS BETTING; PROVIDING FOR LICENSING OF SPORTS BETTING; PROVIDING DEFINITIONS; PROVIDING FOR A SPORTSBOOK OPERATOR LICENSE AND REQUIREMENTS; PROVIDING FOR A PLATFORM OPERATOR LICENSE AND REQUIREMENTS; PROVIDING REQUIREMENTS FOR SPORTS BETTING ASSOCIATED GAMBLING BUSINESSES; PROVIDING FOR SPORTSBOOK DUTIES AND OBLIGATIONS; PROVIDING ENFORCEMENT OVERSIGHT AND DUTIES FOR THE DEPARTMENT OF JUSTICE; PROVIDING RULEMAKING AUTHORITY; PROVIDING FOR DISPUTE RESOLUTION; PROVIDING TAXES AND FEES; PROVIDING FOR THE SPORTS BETTING FUND AND DISTRIBUTION; PROVIDING PENALTIES; AMENDING SECTIONS 23-5-110, 23-5-111, 23-5-112, 23-5-113, 23-5-114, 23-5-115, 23-5-116, 23-5-118, 23-5-119, 23-5-123, 23-5-128, 23-5-129, 23-5-130, 23-5-136, 23-5-138, 23-5-161, 23-5-162, 23-5-172, 23-5-177, AND 23-5-178, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.