



AN ACT GENERALLY REVISING LOTTERY LAWS TO AUTHORIZE SPORTS WAGERING; PROVIDING DEFINITIONS; PROVIDING FOR SPORTS WAGERING; PROVIDING PENALTIES; INCLUDING SPORTS WAGERING WITHIN THE STATE LOTTERY COMMISSION; REVISING POWERS AND DUTIES OF THE COMMISSION RELATING TO SPORTS WAGERING; PROVIDING FOR LICENSING OF SPORTS WAGERING; PROVIDING FOR DISCLOSURE FOR SPORTS WAGERING; PROVIDING FOR SALES OF SPORTS WAGERING; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 23-5-112, 23-7-101, 23-7-102, 23-7-103, 23-7-110, 23-7-201, 23-7-202, 23-7-210, 23-7-211, 23-7-212, 23-7-301, 23-7-302, 23-7-305, 23-7-306, 23-7-307, 23-7-310, 23-7-311, 23-7-312, 23-7-401, 23-7-402, 23-7-411, AND 39-51-3206, MCA; REPEALING SECTION 23-5-806, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Authorization of sports wagering. As it pertains to the state lottery, the operation of sports wagering and ancillary activities are lawful activities in the state of Montana when conducted in accordance with the provisions of this chapter and rules of the commission.

Section 2. Section 23-5-112, MCA, is amended to read:

"23-5-112. Definitions. Unless the context requires otherwise, the following definitions apply to parts 1 through 8 of this chapter:

(1) "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 8 of this chapter.

(2) "Application" means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.

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

(a) has a reason to possess or maintain control over gambling devices;

(b) has access to proprietary information or gambling tax information; or

(c) is a party in processing gambling transactions.

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

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

(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;~~

~~(d)~~(c) credit gambling; and

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

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

(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) (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) "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.

(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) "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 of this chapter.

(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 of this chapter.

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

Section 3. Section 23-7-101, MCA, is amended to read:

"23-7-101. Short title. This chapter may be cited as the "Montana State Lottery Act of 1985 and Sports Wagering Lottery Amendment of 2019"."

Section 4. Section 23-7-102, MCA, is amended to read:

"23-7-102. Purpose. (1) The purpose of this chapter is to allow lottery games and sports wagering in which the player purchases from the state, through the administrators of the state lottery and sports wagering agency, a chance to win a prize. ~~This chapter does not allow and may not be construed to allow any game in which a player competes against or plays with any other person, including a person employed by an establishment in which a lottery game may be played.~~ The state lottery and sports wagering agency may provide products sold only through an authorized lottery device at a ~~the location of a lottery ticket or chance~~ sales agent

location licensed by the director.

(2) The administration and construction of this chapter must comply with Article III, section 9, of the Montana constitution, which mandates that all forms of gambling are prohibited unless authorized by acts of the legislature or by the people through initiative or referendum. Therefore, this chapter must be strictly construed to allow only those games that are within the scope of this section and within the definition of "lottery game" or "sports wagering".

(3) The state lottery may not:

- (a) operate a slot machine or carry on any form of gambling prohibited by the laws of this state; or
- (b) carry on any form of gambling permitted by the laws of this state ~~but which is not~~ except for a lottery game or sports wagering within the scope of this section and within the definition of "lottery game" or "sports wagering".

Section 5. Section 23-7-103, MCA, is amended to read:

"23-7-103. Definitions. As used in this chapter, the following definitions apply:

- (1) "Commission" means the state lottery and sports wagering commission created by 23-7-201.
- (2) "Director" means the director appointed by the governor under 23-7-210 to administer and manage the state lottery.

~~(3) "Lottery" or "state lottery" means the Montana state lottery created and operated pursuant to this chapter.~~

~~(4)~~(3) (a) "Lottery game" means any procedure, including any online or other procedure using a machine or electronic device, by which one or more prizes are distributed among persons who have paid for a chance to win a prize and includes but is not limited to weekly (or other, longer time period) winner games, instant winner games, daily numbers games, ~~and~~ sports pool games, and sports wagering.

(b) The term does not mean games prohibited by Title 23, chapter 5, part 1; Calcutta pools governed by Title 23, chapter 5, part 2; card games regulated by Title 23, chapter 5, part 3; raffles and bingo games governed by Title 23, chapter 5, part 4; and sports pools governed by Title 23, chapter 5, part 5.

(4) "Lottery license" means a license issued by the state lottery that authorizes a sales agent to sell lottery tickets at a fixed place of business.

(5) "Prizes" means any winning tickets, chances, wagers, or bets validated by the state lottery central

gaming system and sold by any sales agent.

(6) "Sales agent" means an entity that holds a lottery license or sports wagering license as provided in this chapter.

(7) (a) "Sports wagering" means accepting wagers on sporting events or portions of sporting events, or on the individual performance statistics of athletes in a sporting event or combination of sporting events, by any system or method of wagering, including but not limited to in-person, or over the internet through websites and on mobile devices. The term includes but is not limited to single-game bets, teaser bets, parlays, over-under, money line, pools, exchange wagering, in-game wagering, in-play bets, and proposition bets.

(b) The term does not include:

(i) any wagers made outside the state;

(ii) any fantasy or simulated game or contest such as fantasy sports in which:

(A) participants own, manage, or coach imaginary teams;

(B) all prizes and awards offered to winning participants are established and made known to participants in advance of the game or contest;

(C) the winning outcome of the game or contest reflects the relative skill of the participants and is determined by statistics generated by actual individuals, including athletes in the case of sporting events; and

(D) no winning outcome is based solely on the performance of an individual athlete or on the score, point spread, or any performances or any single real-world team or any combination of real-world teams.

(8) "Sports wagering account" means a financial record established in a sports wagering facility for an individual in which funds may be deposited or withdrawn and winnings may be credited for sports wagering.

(9) "Sports wagering equipment" means a mechanical, electronic, or other device, mechanism, or other gaming equipment and related supplies that is connected to the state lottery central gaming system and used or consumed in the operation of sports wagering at the licensed sports wagering facility including a self-service terminal installed to accept sports wagers.

(10) "Sports wagering facility" means a lottery location approved under a sports wagering license and licensed under Title 23, chapter 5, as a gambling operator.

(11) "Sports wagering license" means a license issued by the state lottery that authorizes the operation of sports wagering through sports wagering equipment, including sports wagering conducted through mobile application or other digital platforms that is initiated and received or otherwise made exclusively within the

physical confines using location-based services of the single approved sports wagering facility.

(12) "State lottery" means the Montana state lottery and sports wagering agency created and operated pursuant to this chapter.

(13) (a) "Wager" or "bet" means the staking or risking by a person of something of value upon an agreement or understanding that the person or another person will receive something of value in the event of a certain outcome.

(b) The terms "wager" or "bet" do not include:

(i) any activity governed by the securities laws of the United States or the Securities Act of Montana in Title 30, chapter 10;

(ii) a contract of indemnity or guarantee, including a contract for insurance; or

(iii) participation in any game or contest in which the participants do not stake or risk anything of value other than personal efforts of the participants in playing the game or contest or obtaining access to the internet, or points or credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor."

Section 6. Section 23-7-110, MCA, is amended to read:

"23-7-110. Penalties. It is a misdemeanor, punishable by a fine not to exceed \$500 or imprisonment in the county jail for a term not to exceed 6 months, or both, to knowingly or purposely:

(1) require an employee to sell lottery tickets, ~~or chances,~~ or sports wagering in violation of 23-7-301(9);

(2) violate 23-7-301(11);

(3) sell a lottery ticket, ~~or chance,~~ wager, or bet to a person under 18 years of age;

(4) violate subsection (3) or (4) of 23-7-302;

(5) serve as a commissioner, director, assistant director, employee, or licensed agent of the state lottery in violation of 23-7-306;

(6) violate 23-7-307;

(7) violate 23-7-310; or

(8) influence the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery or sports wagering equipment or materials."

Section 7. Section 23-7-201, MCA, is amended to read:

"23-7-201. State lottery and sports wagering commission -- allocation -- composition -- compensation -- quorum. (1) There is a state lottery and sports wagering commission.

(2) The commission consists of five members, who shall reside in Montana, appointed by the governor.

(3) At least one commissioner must have 5 years of experience as a law enforcement officer. At least one commissioner must be an attorney admitted to the practice of law in Montana. At least one commissioner must be a certified public accountant licensed in Montana.

(4) After initial appointments, each commissioner must be appointed to a 4-year term of office, and the terms must be staggered.

(5) A commissioner may be removed by the governor for good cause. An office that for any reason becomes vacant must be filled within 30 days by the governor, and the commissioner filling the vacancy shall serve for the rest of the unexpired term.

(6) The commission shall elect one of its members as presiding officer.

(7) Three or more commissioners constitute a quorum to do business, and action may be taken by a majority of a quorum.

(8) Commissioners are entitled to compensation, to be paid out of the state lottery fund, at the rate of \$50 for each day in which they are engaged in the performance of their duties and are entitled to travel, meals, and lodging expenses, to be paid out of the state lottery fund, as provided for in Title 2, chapter 18, part 5.

(9) The commission is allocated to the department of administration for administrative purposes only as prescribed in 2-15-121."

Section 8. Section 23-7-202, MCA, is amended to read:

"23-7-202. Powers and duties of commission. The commission shall:

(1) establish and operate a state lottery ~~and may not become involved in any other gambling or gaming;~~

(2) determine policies for the operation of the state lottery, supervise the director and the staff, and meet with the director at least once every 3 months to make and consider recommendations, set policies, determine types and forms of lottery and sports wagering games to be operated by the state lottery, and transact other necessary business;

(3) maximize the net revenue paid to the state general fund and to the Montana STEM scholarship

program special revenue account under 23-7-402 and ensure that all policies and rules adopted further revenue maximization;

(4) subject to 23-7-402(1), determine the percentage of the money paid for tickets, ~~or chances,~~ wagers, or bets to be paid out as prizes;

(5) determine the price of each ticket, ~~or chance,~~ wager, or bet and the number and size of prizes;

(6) provide for the conduct of drawings of winners of lottery games and sports wagering;

(7) carry out, with the director, a continuing study of the ~~state lotteries of~~ state lottery in Montana and other ~~states~~ states' lotteries and sports wagering operations to make the state lottery more efficient, profitable, and secure from violations of the law;

(8) study and may enter into agreements with:

(a) other lottery states and countries to offer lottery games; or

(b) an association for the purpose of participating in multistate lottery games or games offered in other states and other countries;

(9) prepare quarterly and annual reports on all aspects of the operation of the state lottery, including but not limited to types of games, gross revenue, prize money paid, operating expenses, net revenue to the state, contracts with gaming suppliers, and recommendations for changes to this part, and deliver a copy of each report to the governor, the department of administration, the legislative auditor, the president of the senate, the speaker of the house of representatives, and each member of the appropriate committee of each house of the legislature as determined by the president of the senate and the speaker of the house; and

(10) adopt rules relating to lottery and sports wagering ~~staff sales incentives or bonuses~~ and sales agents' commissions and any other rules necessary to carry out this part, including but not limited to:

(a) acceptance of wagers on a sports event or a series of sports events;

(b) the type of wagering tickets that may be used;

(c) method of issuing tickets;

(d) method of accounting and associated reporting minimums to be used by sales agent;

(e) sales agent licensing requirements and prohibitions;

(f) method of age verification;

(g) player exclusion requirements;

(h) protections for an individual placing a wager;

(i) contribution and participation in responsible gaming and consumer protection activities and programs;
and
(j) ensuring game integrity through monitoring and reporting of suspicious betting activity and equipment tampering."

Section 9. Section 23-7-210, MCA, is amended to read:

"23-7-210. Director -- appointment -- compensation -- qualifications. (1) The director must be appointed by the governor and shall hold office at the pleasure of the governor.

(2) The director must be qualified by training and experience to direct the state lottery, including sports wagering. The director must be a full-time employee and may not engage in any other occupation.

(3) The director's salary is equal to 90% of the salary of the director of the department of administration."

Section 10. Section 23-7-211, MCA, is amended to read:

"23-7-211. Powers and duties of director. (1) The director shall:

(a) administer the operation of the state lottery in accordance with this chapter and the rules and other directives of the commission;

(b) appoint an assistant director for security and employ and direct personnel necessary to the operation of the state lottery;

(c) license lottery ticket, ~~or chance,~~ and sports wagering sales agents and suspend or revoke licenses pursuant to this chapter and commission rules; and

(d) maintain, with the assistant director for security, the security of the state lottery.

(2) (a) With the concurrence of the commission or pursuant to commission rules, the director may enter into contracts for materials, equipment, and supplies to be used in the operation of the state lottery, for the design and installation of games, for consultant services, for promotion of the lottery, for the sale of tickets, ~~and chances,~~ wagers, and bets, and for other services. The state shall provide for management, security, and internal audit control.

(b) When a contract is awarded, a performance bond satisfactory to and in an amount determined by the commission and executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the commission must be delivered to the commission. The requirements for this bond

must be at least as stringent as those stated in 18-4-312(3)."

Section 11. Section 23-7-212, MCA, is amended to read:

"23-7-212. Assistant director for security -- qualifications -- duties -- compensation. (1) The director shall appoint an assistant director for security, who serves at the pleasure of the director.

(2) The assistant director for security must be qualified by training and experience, have at least 5 years of law enforcement experience, and be knowledgeable and experienced in computer security.

(3) The assistant director for security:

(a) must be responsible for a security division to ensure security, honesty, fairness, and integrity in the operation and administration of the state lottery, including but not limited to an examination of the background of all prospective employees, ~~ticket or chance~~ sales agents, lottery and sports wagering vendors, and lottery contractors. The security division is designated a law enforcement agency for the purpose of administering this chapter.

(b) shall, in conjunction with the director, confer with the attorney general or the attorney general's designee to promote and ensure security, honesty, fairness, and integrity of the operation and administration of the state lottery and establish a memorandum of understanding that contemplates investigatory and regulatory collaboration and assistance between the department of justice and the state lottery as considered necessary by both parties; and

(c) shall, in conjunction with the director, report any alleged violation of law to the attorney general, the legislative auditor, and any other appropriate law enforcement authority for further investigation and action.

(4) The salary of the assistant director for security is equal to 90% of the salary of the director of the lottery."

Section 12. Section 23-7-301, MCA, is amended to read:

"23-7-301. ~~Ticket or chance sales~~ Sales agents -- licenses. (1) Lottery tickets, ~~or chances, wagers,~~ or bets may be sold only by ~~ticket or chance~~ a sales agents agent licensed by the director in accordance with this section.

(2) The commission shall by rule determine the places at which state lottery ~~game~~ games and sports wagering tickets, ~~or chances, wagers, or bets~~ may be sold.

(3) (a) Before issuing a license, the director shall consider:

- (i) the financial responsibility and security of the applicant and the applicant's business or activity;
- (ii) the accessibility of the applicant's place of business or activity to the public; and
- (iii) the sufficiency of existing licenses to serve the public convenience and the volume of the expected sales.

(b) A person under 18 years of age may not sell lottery tickets, ~~or chances, wagers, or bets.~~

(c) A license as an agent to sell lottery tickets, ~~or chances, or wagers and bets~~ may not be issued to any person to engage in business exclusively as a lottery ticket, ~~or chance, or sports wagering~~ sales agent.

(d) A license as an agent to sell wagers or bets may not be issued to any professional or collegiate sports:

(i) athlete;

(ii) coach;

(iii) assistant coach;

(iv) team staff;

(v) team owner;

(vi) referee; or

(vii) employee.

(4) The director may issue temporary licenses upon conditions that the director considers necessary.

~~(5) License applicants shall pay a \$50 fee to cover the cost of investigating and processing the application.~~ (a) Two license types are available:

(i) lottery only; and

(ii) sports wagering only.

(b) License applicants shall complete the application process pursuant to this chapter and corresponding administrative rules.

(6) The director may require a bond from any licensed agent in an amount provided in the commission's rules and may purchase a blanket bond covering the activities of licensed agents.

(7) A licensed agent shall display the license or a copy of the license conspicuously in accordance with the commission's rules.

(8) A license is not assignable or transferable.

(9) An employee of a ~~ticket or chance~~ sales agent may not be required to sell lottery game tickets, ~~or chances, or wagers or bets~~ if the sale is against the employee's religious or moral beliefs.

(10) Sales agents are entitled to a commission of no more than 10% of the face value of tickets and chances that they purchase from the lottery and do not return and no more than 10% of the face value of a wager or bet. However, to further the sale of lottery products and sports wagering, the lottery commission may adopt rules providing additional commissions to sales agents based on incremental sales. Commissions may not come from that part of all gross revenue that is net revenue and is paid to the general fund. The commissions are statutorily appropriated, as provided in 17-7-502, to the lottery.

(11) Each sales agent shall keep a complete and up-to-date set of records and accounts fully showing the agent's sales and provide it for inspection upon request of the commission, the director, the department of administration, the office of the legislative auditor, or the office of the attorney general.

(12) Sales agents may pay the state lottery only by check, bankdraft, electronic funds transfer, or other recorded, noncash, financial transfer method as determined by the director.

(13) A license may be suspended or revoked for failure to maintain the license qualifications provided in subsection (3) or for violation of any provision of this chapter or a commission rule. Prior to suspension or revocation, the licensee must be given notice and an opportunity for a hearing."

Section 13. Section 23-7-302, MCA, is amended to read:

"23-7-302. Sales restrictions. (1) The price of each lottery game ticket, ~~or chance,~~ wager, or bet must be clearly stated on the ticket, ~~or chance,~~ wager, or bet. The price of a lottery game chance vended by a machine or electronic device must be clearly stated on the machine or device.

(2) Tickets, ~~and chances,~~ wagers, or bets may not be sold to or purchased by persons under 18 years of age.

(3) Tickets, ~~and chances,~~ wagers, or bets may not be purchased on credit. Tickets, chances, wagers, or bets may be purchased only with cash, ~~or a check, or debit card~~ and may not be purchased on credit. The use of a debit card is limited to the daily withdrawal amount of the issuing debit card lending institution.

(4) Tickets, ~~and chances,~~ wagers, or bets may not be sold to or purchased by commissioners, the director, the director's staff, gaming suppliers doing business with the state lottery, suppliers' officers and employees, employees of any firm auditing or investigating the state lottery, governmental employees auditing

or investigating the state lottery, or members of their households.

(5) The names of elected officials may not appear on any ticket, ~~or chance,~~ wager, or bet."

Section 14. Section 23-7-305, MCA, is amended to read:

"23-7-305. Disclosure of odds. The director shall make adequate disclosure of the odds or payoffs with respect to each state lottery game or sports wager by stating how to find the odds or payoffs in ~~lottery game~~ advertisements and by posting how to find the odds or payoffs at each place in which tickets, ~~or chances,~~ wagers, or bets are sold."

Section 15. Section 23-7-306, MCA, is amended to read:

"23-7-306. Felony and gambling-related convictions -- ineligibility for lottery or sports wagering positions. A person who has been convicted of a felony or a gambling-related offense under federal law or the law of any state may not be a commissioner, director, assistant director, employee of the state lottery, or licensed ~~ticket or chance~~ sales agent. To determine a person's suitability for the position of commissioner, director, assistant director, or employee of the state lottery, the person shall submit the person's fingerprints to the department of justice. The department shall examine the fingerprints, and if a disqualifying record is not found, the department shall forward the fingerprints to the federal bureau of investigation for a national criminal history check. This section applies to lottery tickets, chances, wagers, and bets."

Section 16. Section 23-7-307, MCA, is amended to read:

"23-7-307. Conflict of interest. A commissioner, director, assistant director, state lottery employee, licensed ~~ticket or chance~~ sales agent, or member of a listed person's household may not have a financial interest in any gaming supplier or any contract between the state lottery and a gaming supplier or accept any gift or thing of value from a gaming supplier."

Section 17. Section 23-7-310, MCA, is amended to read:

"23-7-310. Disclosures by gaming suppliers. (1) A person, firm, association, or corporation that submits a bid or proposal for a contract to supply lottery or sports wagering equipment, tickets, or other material or consultant services for use in the operation of the state lottery shall disclose at the time of the bid or proposal:

(a) the supplier's business name and address and the names and addresses of the following:

(i) if the supplier is a partnership, all of the general and limited partners;

(ii) if the supplier is a trust, the trustee and all persons entitled to receive income or benefit from the trust;

(iii) if the supplier is an association, the members, officers, and directors;

(iv) if the supplier is a corporation, the officers, directors, and each owner or holder, directly or indirectly, of any equity security or other evidence of ownership of any interest in the corporation. However, in the case of owners or holders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those owning or holding 5% or more of the publicly held securities must be disclosed.

(v) if the supplier is a subsidiary company, each intermediary company, holding company, or parent company involved with the subsidiary company and the officers, directors, and stockholders of each. However, in the case of owners or holders of publicly held securities of an intermediary company, holding company, or parent company that is a publicly traded corporation, only the names and addresses of those owning or holding 5% or more of the publicly held securities must be disclosed.

(b) if the supplier is a corporation, all the states in which the supplier is authorized to do business and the nature of that business;

(c) other jurisdictions in which the supplier has contracts to supply gaming materials, equipment, or consultant services;

(d) the details of any conviction, state or federal, of the supplier or any person whose name and address are required by subsection (1)(a) of a criminal offense punishable by imprisonment for more than 1 year;

(e) the details of any disciplinary action taken by any state against the supplier or any person whose name and address are required by subsection (1)(a) regarding any matter related to gaming consultant services or the selling, leasing, offering for sale or lease, buying, or servicing of gaming materials or equipment;

(f) audited annual financial statements for the preceding 5 years;

(g) a statement of the gross receipts realized in the preceding year from gaming consultant services and the sale, lease, or distribution of gaming materials or equipment to states operating lotteries and to private persons licensed to conduct gambling, differentiating that portion of the gross receipts attributable to transactions with states operating lotteries from that portion of the gross receipts attributable to transactions with private persons licensed to conduct gambling;

(h) the name and address of any source of gaming materials or equipment for the supplier;

(i) the number of years the supplier has been in the business of supplying gaming consultant services or gaming materials or equipment; and

(j) any other information, accompanied by any documents the commission by rule may reasonably require as being necessary or appropriate in the public interest to accomplish the purposes of this chapter.

(2) A person, firm, association, or corporation contracting to supply gaming equipment or materials or consultant services to the state for use in the operation of the state lottery may not have any financial interest in any person, firm, association, or corporation licensed as a ~~ticket or chance~~ sales agent.

(3) A contract for supplying consultant services or gaming materials or equipment for use in the operation of the state lottery is not enforceable against the state unless the requirements of this section have been fulfilled."

Section 18. Section 23-7-311, MCA, is amended to read:

"23-7-311. Drawings for and payment of prizes -- unclaimed prizes. (1) All drawings must be held in public. The selection of winning tickets, ~~chances, wagers, or bets~~ may not be performed by an employee of the state lottery or by a member of the commission. All drawings may be witnessed by a professional staff employee of the legislative auditor's office, and all state lottery drawing equipment used in public drawings to select winning prizes or participants for prizes must be examined by the director's staff prior to and after each public drawing.

(2) The commission may by rule provide for the payment of prizes by ~~ticket or chance~~ sales agents, whether or not the paying agent sold the winning ticket, ~~or chance,~~ wager, or bet whenever the amount of the prize is less than an amount set by commission rule. ~~Payment may not be made directly by a machine or device or by a computer terminal.~~

(3) (a) Except as provided in subsection (3)(b), lottery jackpot prizes over \$100,000 may in the discretion of the commission be paid either in one lump sum or in equal yearly installments without interest over a period of not more than 20 years and in yearly installment payments of not less than \$20,000.

(b) If the commission enters into an agreement under the provisions of 23-7-202(8) to participate in a lottery game for prizes of over \$100,000 that requires payment periods of more than 20 years or yearly installment payments of less than \$20,000 as a condition of participation, the commission may adopt the installment payment amounts and time periods necessary to comply with the conditions of the game.

(4) Prizes not claimed within 6 months are forfeited and must be paid into the state lottery fund. No

interest is due on a prize when a claim is delayed but made within 6 months.

(5) The right to a prize is not assignable, but prizes may be paid to a deceased winner's estate or to a person designated by judicial order."

Section 19. Section 23-7-312, MCA, is amended to read:

"23-7-312. Lien on lottery and sports wagering winnings for debt collected by IV-D agency -- notice to agency -- payment to agency -- procedure. (1) For purposes of this section, "IV-D agency" means the state child support enforcement agency created pursuant to Title IV-D of the Social Security Act and providing services under Title 40, chapter 5.

(2) The IV-D agency shall periodically certify to the state lottery the names and social security numbers of persons owing a debt to or collected by the IV-D agency.

(3) Prior to the payment of lottery or sports wagering winnings in excess of ~~\$600~~ the amount set by the commission, the state lottery shall check the name of the winner against the list of names and social security numbers of persons owing a debt to or collected by the IV-D agency.

(4) (a) If the winner is on the list of persons owing a debt to or collected by the IV-D agency, the state lottery shall make a good faith attempt to notify the IV-D agency and the agency then has a lien against the winnings in the amount of the debt owed to or collected by the IV-D agency. The state lottery has no liability to the IV-D agency or the individual on whose behalf the IV-D agency is collecting the debt if the state lottery fails to match a winner's name to a name on the list or is unable to notify the IV-D agency of a match. The IV-D agency shall provide the state lottery with written notice of a support lien promptly upon the state lottery's notification of a match.

(b) If the ~~lottery~~ winnings are to be paid through the state treasurer, the ~~lottery~~ winner is entitled to notice and opportunity for hearing under Title 17, chapter 4, part 1, prior to any offset of the debt against the winnings.

(c) If the ~~lottery~~ winnings are to be paid directly by the state lottery, the amount of the debt owed to or collected by the IV-D agency must be held by the state lottery for a period of 30 days from the state lottery's confirmation of the amount of the debt to allow the IV-D agency to institute any necessary garnishment or withholding proceedings. If a garnishment or withholding proceeding is not initiated within the 30-day period, the state lottery shall release the payment to the winner.

(d) The IV-D agency, in its discretion, may release or partially release the support lien upon written notice

to the state lottery.

(e) A support lien under this section is in addition to any other lien created by law."

Section 20. Section 23-7-401, MCA, is amended to read:

"23-7-401. State lottery fund. There is a fund of the enterprise fund type, as defined in 17-2-102, to be known as the state lottery fund. The gross revenue from the state lottery, consisting of money from the sale of lottery tickets, ~~and chances, wagers, and bets, ticket or chance~~ sales agent license fees, unclaimed prizes, or any other source, must be deposited in the fund, except that, at the discretion of the director, money for prizes paid immediately by a sales agent and money equaling the sales agent's commission may be drawn by a sales agent from the agent's gross revenue before depositing the gross revenue with the state lottery."

Section 21. Section 23-7-402, MCA, is amended to read:

"23-7-402. (Temporary) Disposition of revenue. (1) A minimum of 45% of the money paid for tickets, ~~or chances, wagers, or bets~~ must be paid out as prize money. The prize money is statutorily appropriated, as provided in 17-7-502, to the state lottery.

(2) Commissions paid to lottery ~~ticket or chance~~ sales agents are not a state lottery operating expense.

(3) ~~Lottery~~ State lottery contractor fees, which are fees paid to contracted state lottery vendors based on sales, must be paid from the state lottery enterprise fund. The money to pay lottery contractor fees is statutorily appropriated, as provided in 17-7-502, to the lottery.

(4) (a) Except as provided in subsection (4)(b), that part of all gross revenue not used for the payment of prizes, commissions, and operating expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise fund, is net revenue. Net revenue must be transferred quarterly from the enterprise fund established by 23-7-401 to the state general fund. Once the amount of net revenue transferred to the general fund during a fiscal year equals the amount transferred to the general fund in fiscal year 2015, any additional net revenue must be transferred to the Montana STEM scholarship program special revenue account established in 20-26-617.

(b) For fiscal year 2016, prior to any net revenue being transferred to the general fund from the enterprise fund, \$400,000 of net revenue must be transferred from the enterprise fund to the Montana STEM scholarship special revenue account established in 20-26-617 for the purpose of distributing STEM scholarships pursuant

to 20-26-614 through 20-26-617 during the 2015-2016 school year.

(5) The spending authority of the lottery may be increased in accordance with this section upon review and approval of a revised operation plan by the office of budget and program planning. (Terminates June 30, 2019--sec. 3, Ch. 2, L. 2013.)

23-7-402. (Effective July 1, 2019) Disposition of revenue. (1) A minimum of 45% of the money paid for tickets, ~~or chances, wagers, or bets~~ must be paid out as prize money. The prize money is statutorily appropriated, as provided in 17-7-502, to the state lottery.

(2) Commissions paid to lottery ~~ticket or chance~~ sales agents are not a state lottery operating expense.

(3) That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise fund, is net revenue. Net revenue must be transferred quarterly from the enterprise fund established by 23-7-401 to the state general fund. Once the amount of net revenue transferred to the general fund during a fiscal year equals the amount transferred to the general fund in fiscal year 2015, any additional net revenue must be transferred to the Montana STEM scholarship program special revenue account established in 20-26-617.

(4) The spending authority of the state lottery may be increased in accordance with this section upon review and approval of a revised operation plan by the office of budget and program planning."

Section 22. Section 23-7-411, MCA, is amended to read:

"23-7-411. Audit of state lottery security. (1) After the first 9 months of sales to the public and every 2 years after that, the office of the legislative auditor shall conduct or have conducted a comprehensive audit of all aspects of security in the operation of the state lottery. The costs of the audit are a state lottery operating expense and must be paid out of the state lottery fund. The audit must include:

- (a) personnel security;
- (b) lottery sales agent security;
- (c) lottery contractor security;
- (d) security of manufacturing operations of state lottery contractors;
- (e) security against ticket, chance, wager, or bet ~~ticket or chance~~ counterfeiting and alteration and other means of fraudulently winning;
- (f) security of drawings among entries or finalists;

- (g) computer security;
 - (h) data communications security;
 - (i) database security;
 - (j) systems security;
 - (k) lottery premises and warehouse security;
 - (l) security in distribution;
 - (m) security involving validation and payment procedures;
 - (n) security involving unclaimed prizes;
 - (o) security aspects applicable to each particular lottery game and sports wager;
 - (p) security of drawings in games whenever winners are determined by drawings;
 - (q) the completeness of security against locating winners in state lottery games with preprinted winners by persons involved in their production, storage, distribution, administration, or sales; and
 - (r) any other aspects of security applicable to any particular lottery game or sports wager and to the state lottery and its operations.
- (2) The security audit report must be presented to the commission, the director, the governor, the president of the senate, and the speaker of the house of representatives."

Section 23. Section 39-51-3206, MCA, is amended to read:

"39-51-3206. Collection of benefit overpayments. (1) A person who receives benefits not authorized by this chapter shall repay to the department either directly or, as authorized by the department, by offset of future benefits to which the claimant may be entitled, or by a combination of both methods, a sum equal to the amount of the overpayment.

(2) The department may collect a benefit overpayment and any penalty:

(a) by having the claimant pay the amount owed directly to the department by check, money order, credit card, debit card, or electronic funds transfer;

(b) by offsetting the amount of the overpaid benefits owed against future unemployment benefits to be received by the claimant; or

(c) as provided in 39-51-3208.

(3) The claimant is responsible for any:

(a) penalty established in accordance with 39-51-3201;
 (b) costs or processing fees associated with using the repayment methods set out in subsection (2)(a);
 and

(c) costs or processing fees associated with obtaining an offset as provided in subsection (7)(a).

(4) (a) The department may enter into an agreement with a claimant for:

(i) the repayment of any benefit overpayment and penalty if repayment in full is made within 5 years of the date that it was established that an overpayment occurred; or

(ii) a lump-sum repayment to collect a benefit overpayment if the benefit overpayment was not the result of a false claim, a misrepresentation, or failure to disclose a material fact by the claimant.

(b) The agreement must provide that:

(i) the lump-sum repayment amount is more than 50% of the amount due; and

(ii) the remaining unpaid amount of the benefit overpayment is a debt that is forgiven if the claimant does not, in conjunction with a claim for unemployment benefits, make a false claim or misrepresentation or fail to disclose a material fact during the 2-year period following the claimant's repayment of the lump-sum amount agreed to in subsection (4)(a)(ii).

(5) (a) Except as provided in subsection (5)(b), a benefit offset may not exceed 50% of the weekly benefits to which a claimant is entitled unless the claimant gives consent.

(b) In cases of theft or fraud or when benefit overpayments have been made to winners of a state lottery as provided in 39-51-3208, benefits may be offset by as much as 100% of the weekly benefits to which a claimant is entitled.

(6) (a) The department may collect any benefit overpayment and penalty by directing the offset of any funds due the claimant from the state, except future unemployment benefits as provided in subsection (1) and retirement benefits. The department, through the department of revenue or through the state lottery and sports wagering commission established in 23-7-201 if overpayment is to be collected as provided in 39-51-3208, shall provide the claimant with notice of the right to request a hearing on the offset action. A request for hearing must be made within 30 days of the date of the notice.

(b) The debt does not have to be determined to be uncollectible before being transferred for offset.

(7) (a) The department may direct the offset of funds owed to a person under 26 U.S.C. 6402 if the person owes a covered unemployment compensation benefit debt.

(b) For the purposes of this subsection (7), "covered unemployment compensation benefit debt" means a benefit overpayment and penalty that has been adjudicated as a debt under Montana law and has remained uncollected and that is owed because of:

- (i) the erroneous payment of unemployment compensation resulting from the person's own fraud; or
- (ii) the person's failure to report earnings, irrespective of whether this failure constitutes fraud.

(8) If, upon demand of the department, the claimant fails to make the payments provided for in this section, the unpaid benefit overpayment and associated penalty may be treated as a judgment against the claimant at the time the payments become due. The department may issue a certificate setting forth the amount of payment due and direct the clerk of the district court of any county in the state to enter the certificate as a judgment on the docket pursuant to 25-9-301. From the time the judgment is docketed, it becomes a lien upon all real property of the claimant. The department may enforce the judgment at any time within 10 years of creation of the lien.

(9) The department may waive the benefit overpayment if the department finds that:

- (a) the claimant did not conceal or misrepresent material facts to obtain the overpaid benefits and that recovery of the benefit overpayment would cause a long-term financial hardship on the claimant; or
- (b) the overpayment was the result of department error.

(10) An action for collection of overpaid benefits must be brought within 5 years after the date of the overpayment.

(11) Notwithstanding any other provision of this chapter, the department may recover an overpayment of benefits paid to any individual under the laws of this state or another state or under an unemployment benefit program of the United States."

Section 24. Repealer. The following section of the Montana Code Annotated is repealed:
23-5-806. Sports betting prohibited -- applicability.

Section 25. Transition. The state lottery commission shall implement sports wagering, including adoption of administrative rules, no later than 1 year after [the effective date of this act].

Section 26. Codification instruction. [Section 1] is intended to be codified as an integral part of Title

23, chapter 7, part 1, and the provisions of Title 23, chapter 7, part 1, apply to [section 1].

Section 27. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 0725, originated in the House.

Speaker of the House

Signed this _____ day
of _____, 2019.

Chief Clerk of the House

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 725

INTRODUCED BY R. LYNCH, M. HOPKINS, M. BLASDEL

AN ACT GENERALLY REVISING LOTTERY LAWS TO AUTHORIZE SPORTS WAGERING; PROVIDING DEFINITIONS; PROVIDING FOR SPORTS WAGERING; PROVIDING PENALTIES; INCLUDING SPORTS WAGERING WITHIN THE STATE LOTTERY COMMISSION; REVISING POWERS AND DUTIES OF THE COMMISSION RELATING TO SPORTS WAGERING; PROVIDING FOR LICENSING OF SPORTS WAGERING; PROVIDING FOR DISCLOSURE FOR SPORTS WAGERING; PROVIDING FOR SALES OF SPORTS WAGERING; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 23-5-112, 23-7-101, 23-7-102, 23-7-103, 23-7-110, 23-7-201, 23-7-202, 23-7-210, 23-7-211, 23-7-212, 23-7-301, 23-7-302, 23-7-305, 23-7-306, 23-7-307, 23-7-310, 23-7-311, 23-7-312, 23-7-401, 23-7-402, 23-7-411, AND 39-51-3206, MCA; REPEALING SECTION 23-5-806, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.