

SENATE BILL NO. 49

INTRODUCED BY M. BLASDEL

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING GAMBLING LAWS RELATING TO OWNERSHIP INTERESTS; PROVIDING A DEFINITION OF OWNERSHIP OR OWNERSHIP INTEREST; ALLOWING TRANSFER OF AN OWNERSHIP INTEREST TO ANOTHER OWNER IN THE SAME LICENSED GAMBLING OPERATION; PROVIDING QUALIFICATIONS FOR LICENSURE RELATING TO PERSONS CONTROLLED BY UNQUALIFIED PERSONS; AMENDING SECTIONS 23-5-112, 23-5-118, AND 23-5-176, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. 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) "Antique gambling device" means:

- (a) an illegal gambling device manufactured prior to 1994; or
- (b) any gambling device which, at any present time, is 30 years old or older.

(2) "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.

(3) "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.

(4) "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.

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

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

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

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

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

14 (a) authorized by permit and made available to the public on the premises of a licensed gambling
15 operator; or

16 (b) operated by a senior citizen center.

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

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

21 (12) "Department" means the department of justice.

22 (13) "Distributor" means a person who:

23 (a) purchases or obtains from a licensed manufacturer, distributor, route operator, or operator
24 equipment of any kind for use in gambling activities; and

25 (b) sells the equipment to a licensed manufacturer, distributor, route operator, or operator.

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

1 (b) The term does not mean conducting or participating in:
2 (i) promotional games of chance;
3 (ii) amusement games regulated by Title 23, chapter 6, part 1; or
4 (iii) social card games of bridge, cribbage, hearts, pinochle, pitch, rummy, solo, and whist played solely
5 for prizes of minimal value, as defined by department rule.

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

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

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

13 (b) The term does not mean:

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

16 (ii) a promotional game of chance;

17 (iii) an amusement game regulated under Title 23, chapter 6;

18 (iv) a savings promotion raffle offered by a bank, trust company, mutual savings bank, savings and
19 loan association, or credit union authorized to do business and accept deposits in this state under state or
20 federal law and conducted in compliance with 23-5-413 that entitles individual members or depositors equal
21 chances to win a designated prize by depositing a sum of money during a specified savings period; or

22 (v) an entry into a raffle as a result of paying membership dues or making a purchase of an item
23 offered during a fundraising event held by a nonprofit organization.

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

25 (19) "Heads or tails" means a gambling activity in which players attempt to predict the outcome of a
26 coin toss. Those who are incorrect are eliminated and those who are correct continue to another round until one
27 winning player remains and is awarded a prize.

28 (20) "House player" means a person participating in a card game who has a financial relationship with

1 the operator, card room contractor, or dealer or who has received money or chips from the operator, card room
2 contractor, or dealer to participate in a card game.

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

5 (a) a ticket or card, by whatever name known, containing concealed numbers or symbols that may
6 match numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push
7 card, tip board, pickle ticket, break-open, or jar game, except for one used under Title 23, chapter 7, under part
8 5 of this chapter, in a bingo game approved by the department under part 4 of this chapter, or in a promotional
9 game of chance approved by the department; and

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

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

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

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

20 (c) credit gambling; and

21 (d) internet gambling.

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

27 (b) The term does not include the operation of a simulcast facility or advance deposit wagering with a
28 licensed advance deposit wagering hub operator allowed by Title 23, chapter 4, the state lottery provided for in

1 Title 23, chapter 7, or a raffle authorized under Title 23, chapter 5, part 4, that is sponsored by a nonprofit
2 organization and that is registered with the department. If all aspects of the gaming are conducted on Indian
3 lands in conformity with federal statutes and with administrative regulations of the national Indian gaming
4 commission, the term does not include class II gaming or class III gaming as defined by 25 U.S.C. 2703.

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

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

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

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

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

16 (29) (a) "Lottery" means a scheme, by whatever name known, for the disposal or distribution of
17 property among persons who have paid or promised to pay valuable consideration for the chance of obtaining
18 the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or
19 expectation that it is to be distributed or disposed of by lot or chance.

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

21 (30) "Manufacturer" means a person who:

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

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

26 or

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

1 distributors, route operators, or operators.

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

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

8 (33) "Ownership" or "ownership interest" means the ability to:

9 (a) share in the profits, losses, or liabilities of a gambling operation;

10 (b) enjoy the privileges reserved to licensees; or

11 (c) control a gambling operation.

12 ~~(33)~~ (34) "Permit" means approval from the department to make available for public play a gambling
13 device or gambling enterprise approved by the department pursuant to parts 1 through 8 of this chapter.

14 ~~(34)~~ (35) "Person" or "persons" means both natural and artificial persons and all partnerships,
15 corporations, associations, clubs, fraternal orders, and societies, including religious and charitable
16 organizations.

17 ~~(35)~~ (36) "Premises" means the physical building or property within or upon which a licensed gambling
18 activity occurs, as stated on an operator's license application and approved by the department.

19 ~~(36)~~ (37) "Promotional game of chance" means a scheme, by whatever name known, for the disposal
20 or distribution of property among persons who have not paid or are not expected to pay any valuable
21 consideration or who have not purchased or are not expected to purchase any goods or services for a chance
22 to obtain the property, a portion of it, or a share in it. The property is disposed of or distributed by simulating a
23 gambling enterprise authorized by parts 1 through 8 of this chapter or by operating a device or enterprise
24 approved by the department that was manufactured or intended for use for purposes other than gambling.

25 ~~(37)~~ (38) "Public gambling" means gambling conducted in:

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

28 (b) a place of public resort, including but not limited to a facility owned, managed, or operated by a

1 partnership, corporation, association, club, fraternal order, or society, including a religious or charitable
2 organization; or

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

5 ~~(38)~~ (39) "Raffle" means a form of lottery in which each participant pays valuable consideration for a
6 ticket to become eligible to win a prize. Winners must be determined by a random selection process approved
7 by department rule.

8 ~~(39)~~ (40) "Route operator" means a person who:

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

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

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

14 ~~(40)~~ (41) "Senior citizen center" means a facility operated by a nonprofit or governmental organization
15 that provides services to senior citizens in the form of daytime or evening educational or recreational activities
16 and does not provide living accommodations to senior citizens. Services qualifying under this definition must be
17 recognized in the state plan on aging adopted by the department of public health and human services.

18 ~~(41)~~ (42) (a) "Slot machine" means a mechanical, electrical, electronic, or other gambling device,
19 contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon
20 payment of any valuable consideration, is available to play or operate, the play or operation of which, whether
21 by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the
22 person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything
23 of value, whether the payoff is made automatically from the machine or in any other manner.

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

25 ~~(42)~~ (43) "Video gambling machine" is a gambling device specifically authorized by part 6 of this
26 chapter and the rules of the department."
27

28 **Section 2.** Section 23-5-118, MCA, is amended to read:

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

3 (2) Except as provided in subsection ~~(3)~~ (4), an owner of an interest in a licensed gambling operation
4 shall notify the department in writing and receive approval from the department before transferring any
5 ownership interest in the operation to a person other than another approved owner of an interest in the
6 operation.

7 (3) An owner of an interest in a licensed gambling operation may transfer an ownership interest to
8 another owner of an interest in the same licensed gambling operation without prior department approval subject
9 to reporting requirements provided by department rules.

10 ~~(3)~~ (4) This section does not apply to the transfer of a security interest in a licensed gambling
11 operation under the requirements of subsection ~~(4)~~ (5) or to the transfer of less than 5% of the interest in a
12 publicly traded corporation.

13 ~~(4)~~ (5) A regulated lender, as defined in 31-1-111, may obtain a security interest in the assets of a
14 licensed gambling operation to secure a loan or a guaranty of a loan. A regulated lender may use loan and
15 collateral documentation and loan and collateral structure consistent with that used by the regulated lender in
16 commercial loans generally, and the documentation and structure used by the lender do not create an
17 undisclosed ownership interest in the licensee's business by a coborrower or guarantor if the department
18 determines the borrower, coborrower, guarantor, and owner or owners of the assets pledged as collateral meet
19 the requirements of 23-5-176. As used in this subsection ~~(4)~~ (5), permissible loan and collateral structuring
20 includes but is not limited to permitting owners and nonowners of a licensed gambling operation to:

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

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

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

25 ~~(5)~~ (6) When a licensee is the borrower, an owner of the licensee may make a payment on the
26 institutional loan. If a payment is made under this subsection ~~(5)~~ (6):

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

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

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

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

7 ~~(6)~~ (7) If a borrower, coborrower, or guarantor is not the licensee or an owner of the licensee, the
8 coborrower or guarantor may make a payment on the institutional loan, and the payment does not create an
9 undisclosed ownership in the licensee's business by the borrower, coborrower, or guarantor only if:

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

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

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

14 ~~(7)~~ (8) A regulated lender that obtains a security interest in the assets of a licensed gambling
15 operation has no duty to ensure a coborrower's or guarantor's compliance with the requirements of subsection
16 ~~(5)~~ (6) or ~~(6)~~ (7) in connection with loan or guaranty payments it may receive from the coborrower or guarantor.

17 ~~(8)~~ (9) For the purposes of subsections ~~(5)~~ (6) and ~~(6)~~ (7), the term "borrower" means the party that is
18 primarily responsible for making payments and that receives the funds or on whose behalf the funds were paid."
19

20 **Section 3.** Section 23-5-176, MCA, is amended to read:

21 **"23-5-176. Qualifications for licensure.** (1) A person who the department determines is qualified to
22 receive a license under the provisions of this chapter may, based on information available to, required by, or
23 supplied to the department under department rules, be issued a state gambling license.

24 (2) Except as provided in subsection (4), the department shall issue a license unless the department
25 can demonstrate that the applicant:

26 (a) is a person whose prior financial or other activities or criminal record:

27 (i) poses a threat to the public interest of the state;

28 (ii) poses a threat to the effective regulation and control of gambling; or

1 (iii) creates a danger of illegal practices, methods, or activities in the conduct of gambling or in the
2 carrying on of the business and financial arrangements incidental to gambling;

3 (b) has been convicted of a felony offense within 5 years of the date of application or is on probation
4 or parole or under deferred prosecution for committing a felony offense; ~~or~~

5 (c) is receiving a substantial amount of financing for the proposed operation from an unsuitable
6 source. A lender or other source of money or credit that the department finds to meet the provisions of
7 subsection (2)(a) may be considered an unsuitable source; or

8 (d) is subject to control by a family member, other person, or entity who would be unqualified under
9 this section and who is able to:

10 (i) influence the gambling operator, location manager, or applicant; or

11 (ii) prevent the gambling operator or location manager from fully pursuing the licensee's separate
12 interests.

13 (3) The provisions of 37-1-203 and 37-1-205 do not apply to licensing determinations made under this
14 section.

15 (4) The department may deny a license or permit to an applicant who has falsified a license or permit
16 application. If the falsification is determined after the license or permit has been issued, the department may
17 revoke the license or permit."

18

19 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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