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Drafter: Jameson Walker, 406-444-3722

67th Legislature

PD 0008

1 **** BILL NO. ****
2 INTRODUCED BY ****
3 BY REQUEST OF THE ****
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT INCORPORATING HISTORICAL HORSERACING MACHINES
6 INTO THE VIDEO GAMING MACHINE CONTROL LAW; ALLOWING PARIMUTUEL GAMBLING THROUGH
7 HISTORICAL HORSERACING MACHINES; PROVIDING A FIVE HISTORICAL HORSERACING MACHINE
8 LIMIT TO A LICENSED ESTABLISHMENT; PROVIDING FOR ALLOCATION OF FEES AND TAXES;
9 PROVIDING FOR TAXES TO GO TO THE BOARD OF HORSERACING FOR THE PROMOTION OF LIVE
10 HORSERACING; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 23-5-112, 23-5-
11 602, 23-5-603, 23-5-607, 23-5-608, 23-5-610, 23-5-611, 23-5-614, AND 23-5-621, MCA."
12

13 WHEREAS, horse racing in Montana can trace its roots back to the 1800s. The 1965 Montana
14 Legislature created the Montana Board of Horseracing and charged it with the promotion of horseracing across
15 the state. During the 1980s, Montana horse racing reached its pinnacle in terms of the number of days racing
16 along with the amounts of dollars waged at the tracks. In 1984, annual wagering at live race meets was just shy
17 of \$12,000,000 and there were 143 race days that year.

18 WHEREAS, horseracing has been in decline since the passage of the 1985 Video Poker Machine Act.
19 In 1991, annual wagering at live race meets had fallen to approximately \$6,000,000 and there were 77 race
20 days that year. In 2019, only 8 days of horse racing were conducted between the two remaining race tracks in
21 operation.

22 WHEREAS, this act seeks to renew horse racing in this state by providing video gaming machines that
23 will benefit the Montana Board of Horseracing and local communities.

24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
26

27 NEW SECTION. **Section 1. Historical horseracing machines authorized -- hub operations --**
28 **payouts -- rulemaking.** (1) A licensed operator may make available for public play historical horseracing

1 machines as provided in this part. Except as specifically provided in this part, the term "historical horseracing
2 machine" is included in the definition of a "video gambling machine."

3 (2) (a) The historical horseracing machines specifically authorized by this part may allow parimutuel
4 betting that is based on historical horseracing. The department may approve and license multiple historical
5 horseracing networks in this state. The hub operations of any historical horseracing machine must be:

- 6 (i) located in the state at a location approved by the department; and
- 7 (ii) available for inspection by the department.

8 (b) A historical horseracing machine must automatically report daily wagers to the department and
9 gambling locations licensed under this part.

10 (3) A historical horseracing machine may offer games from one 1 cent to up to \$5.

11 (4) For payouts under \$1,000, a licensee shall pay in cash all credits owed to a player as shown on a
12 valid ticket voucher.

13 (5) For payouts over \$1,000, a licensee may pay in cash or through automated clearinghouse transfers
14 between the network's main office and the licensed location.

15 (6) A historical horseracing machine must display the minimum and maximum payout for every wager
16 made. A historical horseracing machine may display the size of the parimutuel pools that is participating.

17 (7) The department may establish by rule:

- 18 (a) a reasonable time period during which a player shall present a valid ticket voucher to the licensee
19 for payment before the voucher may be considered expired and invalid; and
- 20 (b) procedures for payouts, including payouts exceeding \$1,000.

21

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

23 **"23-5-112. Definitions.** Unless the context requires otherwise, the following definitions apply to parts
24 1 through 8 of this chapter:

25 (1) "Antique gambling device" means:

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

28 (2) "Applicant" means a person who has applied for a license or permit issued by the department

1 pursuant to parts 1 through 8 of this chapter.

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

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

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

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

8 (c) is a party in processing gambling transactions.

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

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

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

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

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

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

24 (b) operated by a senior citizen center.

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

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

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

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

3 (a) purchases or obtains from a licensed manufacturer, distributor, route operator, or operator

4 equipment of any kind for use in gambling activities; and

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

6 (14) (a) "Gambling" or "gambling activity" means risking any money, credit, deposit, check, property,

7 or other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a

8 gambling device or gambling enterprise.

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

10 (i) promotional games of chance;

11 (ii) amusement games regulated by Title 23, chapter 6, part 1; or

12 (iii) social card games of bridge, cribbage, hearts, pinochle, pitch, rummy, solo, and whist played solely

13 for prizes of minimal value, as defined by department rule.

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

15 machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling

16 activity.

17 (16) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme,

18 or agreement to provide gambling or a gambling device to the public.

19 (17) (a) "Gift enterprise" means a gambling activity in which persons have qualified to obtain property

20 to be awarded by purchasing or agreeing to purchase goods or services.

21 (b) The term does not mean:

22 (i) a cash or merchandise attendance prize or premium that county fair commissioners of agricultural

23 fairs and rodeo associations may give away at public drawings at fairs and rodeos;

24 (ii) a promotional game of chance;

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

26 (iv) a savings promotion raffle offered by a bank, trust company, mutual savings bank, savings and

27 loan association, or credit union authorized to do business and accept deposits in this state under state or

28 federal law and conducted in compliance with 23-5-413 that entitles individual members or depositors equal

1 chances to win a designated prize by depositing a sum of money during a specified savings period; or

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

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

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

8 (20) "Historical horseracing" and "historical horseracing machine" has the same meaning as provided
9 in [sections 1 through 19].

10 ~~(20)(21)~~ "House player" means a person participating in a card game who has a financial relationship
11 with the operator, card room contractor, or dealer or who has received money or chips from the operator, card
12 room contractor, or dealer to participate in a card game.

13 ~~(21)(22)~~ "Illegal gambling device" means a gambling device not specifically authorized by statute or by
14 the rules of the department. The term includes:

15 (a) a ticket or card, by whatever name known, containing concealed numbers or symbols that may
16 match numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push
17 card, tip board, pickle ticket, break-open, or jar game, except for one used under Title 23, chapter 7, under part
18 5 of this chapter, in a bingo game approved by the department under part 4 of this chapter, or in a promotional
19 game of chance approved by the department; and

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

23 ~~(22)(23)~~ "Illegal gambling enterprise" means a gambling enterprise that violates or is not specifically
24 authorized by a statute or a rule of the department. The term includes:

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

28 (b) a dice game, by whatever name known, in which a participant wagers on the outcome of the roll of

1 one or more dice, including craps, hazard, or chuck-a-luck, but not including activities authorized by 23-5-160;

2 (c) credit gambling; and

3 (d) internet gambling.

4 ~~(23)~~(24) (a) "Internet gambling", by whatever name known, includes but is not limited to the conduct of
5 any legal or illegal gambling enterprise through the use of communications technology that allows a person
6 using money, paper checks, electronic checks, electronic transfers of money, credit cards, debit cards, or any
7 other instrumentality to transmit to a computer information to assist in the placing of a bet or wager and
8 corresponding information related to the display of the game, game outcomes, or other similar information.

9 (b) The term does not include the operation of a simulcast facility or advance deposit wagering with a
10 licensed advance deposit wagering hub operator allowed by Title 23, chapter 4, the state lottery provided for in
11 Title 23, chapter 7, or a raffle authorized under Title 23, chapter 5, part 4, that is sponsored by a nonprofit
12 organization and that is registered with the department. If all aspects of the gaming are conducted on Indian
13 lands in conformity with federal statutes and with administrative regulations of the national Indian gaming
14 commission, the term does not include class II gaming or class III gaming as defined by 25 U.S.C. 2703.

15 ~~(24)~~(25) "Keno" means a game of chance in which prizes are awarded using a card with 8 horizontal
16 rows and 10 columns on which a player may pick up to 10 numbers. A keno caller, using authorized equipment,
17 shall select at random at least 20 numbers out of numbers between 1 and 80, inclusive.

18 ~~(25)~~(26) "Keno caller" means a person 18 years of age or older who, using authorized equipment,
19 announces the order of the numbers drawn in live keno.

20 ~~(26)~~(27) "License" means a license for an operator, dealer, card room contractor, manufacturer of
21 devices not legal in Montana, sports tab game seller, manufacturer of electronic live bingo or keno equipment,
22 other manufacturer, distributor, or route operator that is issued to a person by the department.

23 ~~(27)~~(28) "Licensee" means a person who has received a license from the department.

24 ~~(28)~~(29) "Live card game" or "card game" means a card game that is played in public between persons
25 on the premises of a licensed gambling operator or in a senior citizen center.

26 ~~(29)~~(30) (a) "Lottery" means a scheme, by whatever name known, for the disposal or distribution of
27 property among persons who have paid or promised to pay valuable consideration for the chance of obtaining
28 the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or

1 expectation that it is to be distributed or disposed of by lot or chance.

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

3 ~~(30)~~(31) "Manufacturer" means a person who:

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

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

8 or

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

12 ~~(31)~~(32) "Nonprofit organization" means an organization established as a nonprofit to support
13 charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, senior citizens', or service
14 organizations' charitable activities, scholarships or educational grants, or community service projects.

15 ~~(32)~~(33) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and
16 operates or controls for use in public a gambling device or gambling enterprise authorized under parts 1
17 through 8 of this chapter.

18 ~~(33)~~(34) "Permit" means approval from the department to make available for public play a gambling
19 device or gambling enterprise approved by the department pursuant to parts 1 through 8 of this chapter.

20 ~~(34)~~(35) "Person" or "persons" means both natural and artificial persons and all partnerships,
21 corporations, associations, clubs, fraternal orders, and societies, including religious and charitable
22 organizations.

23 ~~(35)~~(36) "Premises" means the physical building or property within or upon which a licensed gambling
24 activity occurs, as stated on an operator's license application and approved by the department.

25 ~~(36)~~(37) "Promotional game of chance" means a scheme, by whatever name known, for the disposal
26 or distribution of property among persons who have not paid or are not expected to pay any valuable
27 consideration or who have not purchased or are not expected to purchase any goods or services for a chance
28 to obtain the property, a portion of it, or a share in it. The property is disposed of or distributed by simulating a

1 gambling enterprise authorized by parts 1 through 8 of this chapter or by operating a device or enterprise
2 approved by the department that was manufactured or intended for use for purposes other than gambling.

3 ~~(37)~~(38) "Public gambling" means gambling conducted in:

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

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

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

11 ~~(38)~~(39) "Raffle" means a form of lottery in which each participant pays valuable consideration for a
12 ticket to become eligible to win a prize. Winners must be determined by a random selection process approved
13 by department rule.

14 ~~(39)~~(40) "Route operator" means a person who:

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

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

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

20 ~~(40)~~(41) "Senior citizen center" means a facility operated by a nonprofit or governmental organization
21 that provides services to senior citizens in the form of daytime or evening educational or recreational activities
22 and does not provide living accommodations to senior citizens. Services qualifying under this definition must be
23 recognized in the state plan on aging adopted by the department of public health and human services.

24 ~~(41)~~(42) (a) "Slot machine" means a mechanical, electrical, electronic, or other gambling device,
25 contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon
26 payment of any valuable consideration, is available to play or operate, the play or operation of which, whether
27 by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the
28 person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything

1 of value, whether the payoff is made automatically from the machine or in any other manner.

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

3 ~~(42)~~(43) "Video gambling machine" is a gambling device specifically authorized by part 6 of this
4 chapter and the rules of the department."
5

6 **Section 3.** Section 23-5-602, MCA, is amended to read:

7 **"23-5-602. Definitions.** As used in this part, the following definitions apply:

8 (1) "Associated equipment" means all proprietary devices, machines, or parts used in the
9 manufacture or maintenance of a video gambling machine, including but not limited to integrated circuit chips,
10 printed wired assembly, printed wired boards, printing mechanisms, video display monitors, metering devices,
11 and cabinetry.

12 (2) (a) "Bingo machine" means an electronic video gambling machine that, upon insertion of cash, is
13 available to play bingo, as defined by rules of the department. The machine uses a video display and
14 microprocessors and, by the skill of the player, by chance, or by both, allows the player to receive free games,
15 bonus games, or credits that may be redeemed for cash.

16 (b) The term does not include a slot machine or a machine that directly dispenses coins, cash,
17 tokens, or anything else of value.

18 (3) (a) "Bonus game" means a game other than a bingo, poker, keno, or video line game that is
19 offered as a prize for playing and achieving a defined outcome by playing a bingo, poker, keno, or video line
20 game. The term includes a game that allows a player to win free credits, free games, or a multiplier of credits
21 already won or to move to an accelerated pay table for the play of a bingo, poker, keno, or video line game. A
22 bonus game must make available to the player a display of the rules for the bonus game.

23 (b) The term does not include a game that allows the player to wager money or credits on the game
24 or to lose money or credits already won. The term does not include a game by which the bonus game would
25 become the predominant game rather than a bingo, poker, keno, or video line game. The department shall by
26 administrative rule define the conditions that would cause a bonus game to be the predominant game. The term
27 does not include a game that displays or simulates a gambling activity that is not legal under state law.

28 (4) "Electronically captured data" means video gambling machine accounting information and records

1 of video gambling machine events, in electronic form, that are automatically recorded and communicated to the
2 department through an approved automated accounting and reporting system.

3 (5) "Gross income" means money put into a video gambling machine minus credits paid out in cash.

4 (6) (a) "Keno machine" means an electronic video gambling machine that, upon insertion of cash, is
5 available to play keno, as defined by rules of the department. The machine uses a video display and
6 microprocessors and, by the skill of the player, by chance, or by both, allows the player to receive free games,
7 bonus games, or credits that may be redeemed for cash.

8 (b) The term does not include a slot machine or a machine that directly dispenses coins, cash,
9 tokens, or anything else of value.

10 (7) "Historical Horserace" means a horserace that was:

11 (a) previously conducted by a licensed parimutuel facility;

12 (b) concluded with official results; and

13 (c) concluded without scratches, disqualifications, or dead-heat finishes.

14 (8) "Historical Horseracing" means a type of parimutuel betting, through a licensed historical
15 horseracing machine, that is based on a historical horserace.

16 (9) "Historical Horseracing Machine" means an electronic video gambling machine that, upon insertion
17 of cash, is available to play historical horseracing, as defined this section and by rules of the department. The
18 machine uses a video display and microprocessors and, by the skill of the player, by chance, or by both, allows
19 the player to receive free games, bonus games, or credits that may be redeemed for cash. A historical
20 horseracing machine must solely be based on a historical horserace and the term does not include a machine
21 that directly dispenses coins, cash, tokens, or anything else of value.

22 ~~(7)~~(10) "Licensed machine owner" means a licensed operator or route operator who owns a video
23 gambling machine for which a permit has been issued by the department.

24 ~~(8)~~(11) "Multigame" means a combination of at least two or more approved types of games, including
25 bingo, poker, keno, or video line games, within the same video gambling machine cabinet if the video gambling
26 machine cabinet has been approved by the department.

27 ~~(9)~~(12) "Permitholder" means a licensed operator on whose premises is located one or more video
28 gambling machines for which a permit has been issued by the department.

1 ~~(10)~~(13) (a) "Poker machine" means an electronic video gambling machine that, upon insertion of
2 cash, is available to play or simulate the play of the game of draw poker, 5-card stud, 7-card stud, or hold 'em,
3 as defined by rules of the department. The machine uses a video display and microprocessors and, by the skill
4 of the player, by chance, or by both, allows the player to receive free games, bonus games, or credits that may
5 be redeemed for cash.

6 (b) The term does not include a slot machine or a machine that directly dispenses coins, cash,
7 tokens, or anything else of value.

8 ~~(11)~~(14) (a) "Video line game" means a video line game as defined by rules of the department and
9 approved by the department. A video line game uses a video display and microprocessors and, by the skill of
10 the player, by chance, or by both, allows the player to receive free games, bonus games, or credits that may be
11 redeemed for cash. Video line games may be offered only in a multigame video gambling machine cabinet.

12 (b) The term does not include a game played on a slot machine or a machine that directly dispenses
13 coins, cash, tokens, or anything else of value."
14

15 **Section 4.** Section 23-5-603, MCA, is amended to read:

16 **"23-5-603. Video gambling machines -- possession -- play -- restriction.** (1) A licensed operator
17 may make available for public play only the number of approved video gambling machines specifically
18 authorized by this part.

19 (2) The video gambling machines specifically authorized by this part are bingo, poker, keno, video
20 line, historical horseracing, and multigame video gambling machines. Only the number of approved machines
21 for which permits have been granted under 23-5-612 may be made available for play by the public on the
22 premises of a licensed operator. The department shall adopt rules allowing a video gambling machine that
23 needs repair to be temporarily replaced while it is being repaired with a video gambling machine that is
24 approved under the permit provisions of this part. A fee may not be charged for the replacement machine.

25 (3) A video line game approved by the department for play must be made available to any licensed
26 machine owner.

27 (4) A manufacturer may not charge a fee for the use of a bingo, poker, keno, video line, historical
28 horseracing, or multigame video gambling machine on a daily basis or any other periodic basis.

1 (5) A licensed operator, distributor, route operator, or manufacturer is prohibited from referencing
2 games not authorized under this title in advertising, promoting, or inducing play of a video gambling machine.
3 The department shall further define by rule what advertising is allowed under this subsection.

4 (6) Machines on premises appropriately licensed to sell alcoholic beverages for on-premises
5 consumption, as provided in 23-5-119, must be placed:

6 (a) in a room, area, or other part of the premises in which alcoholic beverages are sold or consumed;
7 and

8 (b) within control of the operator for the purpose of preventing access to the machines by persons
9 under 18 years of age."

10

11 **Section 5.** Section 23-5-607, MCA, is amended to read:

12 **"23-5-607. Expected payback -- verification.** (1) The department shall prescribe the expected
13 payback value of credit awarded to be at least 80% of the value of credit played for each bingo, poker, keno,
14 and video line game in a video gambling machine. The credit ratio may not be greater than 92% for each video
15 line game.

16 (2) Each video gambling machine must have an electronic accounting device that the department
17 may use to verify the winning percentage.

18 (3) This section does not include historical horseracing machines."

19

20 **Section 6.** Section 23-5-608, MCA, is amended to read:

21 **"23-5-608. Limitation on amount of money played and value of prizes -- payment of credits in**
22 **cash -- ticket voucher expiration -- rules.** (1) Except for a historical horseracing machine, Aa video gambling
23 machine may not allow more than \$2 to be played on a game or award free games or credits in excess of \$800
24 a game.

25 (2) A licensee shall pay in cash all credits owed to a player as shown on a valid ticket voucher.

26 (3) The department may establish by rule a reasonable time period during which a player shall
27 present a valid ticket voucher to the licensee for payment before the voucher may be considered expired and
28 invalid."

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Section 7. Section 23-5-610, MCA, is amended to read:

"23-5-610. Video gambling machine gross income tax -- records -- distribution -- quarterly

statement and payment. (1) A licensed machine owner shall pay to the department a video gambling machine tax of 15% of the gross income from each video gambling machine issued a permit under this part. A licensed machine owner may deduct from the gross income amounts equal to amounts stolen from machines if the amounts stolen are not repaid by insurance or under a court order, if a law enforcement agency investigated the theft, and if the theft is the result of either unauthorized entry and physical removal of the money from the machines or of machine tampering and the amounts stolen are documented.

(2) A licensed machine owner shall keep a record of the gross income from each video gambling machine issued a permit under this part in the form the department requires. The records must at all times during the business hours of the licensee be subject to inspection by the department.

(3) For each video gambling machine issued a permit under this part, a licensed machine owner shall, within 15 days after the end of each quarter and in the manner prescribed by the department, complete and deliver to the department a statement showing the total gross income, together with the total amount due the state as video gambling machine gross income tax for the preceding quarter. The statement must contain other relevant information that the department requires.

(4) Except as provided in subsection (5), ~~The~~ department shall, in accordance with the provisions of 17-2-124, forward the tax collected under subsection (3) of this section to the state treasurer for deposit in the general fund.

(5) For the tax collected on historical horseracing machines, the department, shall forward the tax collected in subsection (3) as follows:

(a) fifty percent is deposited in an account in the state special revenue account as provided in this part. The department shall deduct from the gross deposits into the account an amount sufficient to reimburse the department's actual costs and expenses in administering historical horseracing; and

(b) fifty percent is deposited a state special revenue account and is statutorily appropriated to the board of horseracing as provided in 17-7-502 and 23-4-105 for the support and rebuilding of the live horse racing industry in the state."

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Section 8. Section 23-5-611, MCA, is amended to read:

"23-5-611. Machine permit qualifications -- limitations. (1) (a) A person who has been granted an operator's license under 23-5-177 and who holds an appropriate license to sell alcoholic beverages for consumption on the premises as provided in 23-5-119 may be granted a permit for the placement of video gambling machines on the person's premises.

(b) If video keno or bingo gambling machines were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed to sell alcoholic beverages for consumption on the premises or operated for the principal purpose of gaming and there is an operator's license for the premises under 23-5-177, a permit for the same number of multigame gambling machines as were operated on the premises on that date may be granted to the person who held the permit for that number of machines on those premises on that date.

(c) A person who legally operated an establishment on January 15, 1989, for the principal purpose of gaming and has been granted an operator's license under 23-5-177 may be granted a permit for the placement of bingo, poker, keno, video line, or multigame video gambling machines on the person's premises.

(2) An applicant for a permit shall disclose on the application form to the department any information required by the department consistent with the provisions of 23-5-176.

~~(3) (a)— Except for historical horseracing machines as provided in this subsection (3)(b), A licensee may not have on the premises or make available for play on the premises more than 20 machines of any combination.~~

~~(b) A maximum of five approved historical horseracing machines for which permits have been granted under this part may be made available for play by the public on the premises of a licensed operator. This is in addition to the limit provided in subsection (3)(a)."~~

Section 9. Section 23-5-614, MCA, is amended to read:

"23-5-614. Sale of video gambling machines. (1)(a) A licensed operator who is not licensed as a manufacturer, distributor, or route operator may sell up to 20 video gambling machines in a calendar year if the operator:

1 ~~(a)(i)~~ had obtained permits for the machines and legally operated them prior to the sale; and

2 ~~(b)(ii)~~ sells the machines to another licensed operator or to a licensed manufacturer, distributor, or
3 route operator.

4 (b) This subsection (1)(a) does not apply to historical horseracing machines.

5 (2) A lienholder who acquires title to video gambling machines through a foreclosure action involving
6 a licensed manufacturer, distributor, route operator, or operator may sell the machines to a licensed
7 manufacturer, distributor, route operator, or operator.

8 (3) A licensed manufacturer or distributor may sell video gambling machines and associated
9 equipment approved by the department for delivery to any jurisdiction outside of this state if the sale and
10 transportation of the machines or equipment complies with all applicable local, tribal, state, and federal laws
11 and regulations. Prior to the date of the sale, the seller shall notify the department of the terms of the sale, the
12 identities of the seller, purchaser, and person to whom the shipment will be made, the type and number of
13 machines or equipment to be sold, and the method of shipment and provide the department with the approval
14 of the jurisdiction in which the machines or equipment will be received. A person convicted of purposely or
15 knowingly violating this subsection shall be punished as provided in 23-5-162."

16

17 **Section 10.** Section 23-5-621, MCA, is amended to read:

18 **"23-5-621. Rules.** (1) The department shall adopt rules that:

19 (a) implement 23-5-637;

20 (b) describe the video gambling machines authorized by this part and state the specifications for
21 video gambling machines authorized by this part, including a description of the images and the minimum area
22 of a screen that depicts a bingo, poker, keno, or video line game;

23 (c) allow video gambling machines to be imported into this state and used for the purposes of trade
24 shows, exhibitions, and similar activities;

25 (d) allow each video gambling machine to offer any combination of approved bingo, poker, keno, and
26 video line games within the same video gambling machine cabinet if the owner of the video gambling machine
27 has received approval to report video gambling machine information using an approved automated accounting
28 and reporting system or has entered into an agreement with the department to use an approved automated

1 accounting and reporting system;

2 (e) allow, on an individual license basis, licensed machine owners and operators of machines that use
3 an approved automated accounting and reporting system to:

4 (i) electronically acquire and use for an individual licensed premises the information and data
5 collected for business management, accounting, and payroll purposes; however, the rules must specify that the
6 data made available as a result of an approved automated accounting and reporting system may not be used
7 by licensees for player tracking purposes; ~~and~~

8 (ii) acquire and use, at the expense of a licensee, a department-approved site controller;

9 (f) minimize, whenever possible, the recordkeeping and retention requirements for video gambling
10 machines that use an approved automated accounting and reporting system; ~~and~~

11 (h) implement historical horseracing as provided in this part.

12 (2) The department's rules for an approved automated accounting and reporting system must, at a
13 minimum:

14 (a) provide for confidentiality of information received through the approved automated accounting and
15 reporting system within the limits prescribed by 23-5-115(8) and 23-5-116;

16 (b) prescribe specifications for maintaining the security and integrity of the approved automated
17 accounting and reporting system;

18 (c) limit and prescribe the circumstances for electronic issuance of video gambling machine permits
19 and electronic transfer of funds for payment of taxes, fees, or penalties to the department;

20 (d) describe specifications and a review and testing process for approved automated accounting and
21 reporting systems to be used by licensed operators, including the requirements for electronically captured data;
22 and

23 (e) prescribe the frequency of reporting from an approved automated accounting and reporting
24 system and provide exceptions for geographically isolated video gambling operators."

25
26 NEW SECTION. Section 11. Codification instruction. [Section 1] is intended to be codified as an
27 integral part of Title 23, chapter 5, part 6, and the provisions of Title 23, chapter 5, part 6, apply to [section 1].

28 - END -