

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 FOR ALLOCATION OF FEES AND TAXES;  
8 PROVIDING FOR TAXES TO GO TO THE BOARD OF HORSERACING FOR THE PROMOTION OF LIVE  
9 HORSERACING; AMENDING SECTIONS 23-5-602, 23-5-603, 23-5-607, 23-5-608, 23-5-610, AND 23-5-621,  
10 MCA; PROVIDING AN EFFECTIVE DATE."  
11

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

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

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

23  
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
25

26 NEW SECTION. **Section 1. Historical horseracing machines authorized -- hub operations --**  
27 **payouts -- rulemaking.** (1) A licensed operator may make available for public play historical horseracing  
28 machines as provided in this part. Except as specifically provided in this part, the term "historical horseracing

1 machine" is included in the definition of a "video gambling machine" and is subject to the provisions of this part.

2 (2) (a) The historical horseracing machines specifically authorized by this part may allow parimutuel  
3 betting that is based on the outcome of historical horseracing. The hub operations of any historical horseracing  
4 machine must be:

5 (i) located in the state at a location approved by the department; and

6 (ii) available for inspection by the department.

7 (b) Daily wagering reports shall be provided to the department by the licensee.

8 (3) A historical horseracing machine may allow wagers and payouts on games as provided in 23-5-  
9 608. The department shall adopt rules relating to payouts exceeding the limit as provided in 23-5-608.

10 (4) A historical horseracing machine must make the minimum and maximum payout for each wager  
11 available for view by the player. A historical horseracing machine may display the size of the parimutuel pools  
12 that is participating.

13

14 **Section 2.** Section 23-5-602, MCA, is amended to read:

15 **"23-5-602. Definitions.** As used in this part, the following definitions apply:

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

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

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

26 (3) (a) "Bonus game" means a game other than a bingo, poker, keno, or video line game that is  
27 offered as a prize for playing and achieving a defined outcome by playing a bingo, poker, keno, or video line  
28 game. The term includes a game that allows a player to win free credits, free games, or a multiplier of credits

1 already won or to move to an accelerated pay table for the play of a bingo, poker, keno, or video line game. A  
2 bonus game must make available to the player a display of the rules for the bonus game.

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

8 (4) "Electronically captured data" means video gambling machine accounting information and records  
9 of video gambling machine events, in electronic form, that are automatically recorded and communicated to the  
10 department through an approved automated accounting and reporting system.

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

12 (6) "Historical Horserace" means a horserace that was:

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

14 (b) concluded with official results; and

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

16 (7) "Historical Horseracing" means a type of parimutuel betting, through an approved historical  
17 horseracing machine, that is based on a horserace conducted in the past.

18 (8) "Historical Horseracing Machine" means an electronic video gambling machine that, upon insertion  
19 of cash or voucher, is available to place wagers on historical horseracing, as defined in this section and by rules  
20 of the department. The machine uses a video display, makes past performance information available to the  
21 player, and determines prizes based solely on the outcome of the historical horserace.

22 ~~(6)(9)~~ (a) "Keno machine" means an electronic video gambling machine that, upon insertion of cash,  
23 is available to play keno, as defined by rules of the department. The machine uses a video display and  
24 microprocessors and, by the skill of the player, by chance, or by both, allows the player to receive free games,  
25 bonus games, or credits that may be redeemed for cash.

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

28 ~~(7)(10)~~ "Licensed machine owner" means a licensed operator or route operator who owns a video

1 gambling machine for which a permit has been issued by the department.

2 ~~(8)~~(11) "Multigame" means a combination of at least two or more approved types of games, including  
3 bingo, poker, keno, or video line games, within the same video gambling machine cabinet if the video gambling  
4 machine cabinet has been approved by the department.

5 ~~(9)~~(12) "Permitholder" means a licensed operator on whose premises is located one or more video  
6 gambling machines for which a permit has been issued by the department.

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

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

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

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

20

21 **Section 3.** Section 23-5-603, MCA, is amended to read:

22 **"23-5-603. Video gambling machines -- possession -- play -- restriction.** (1) A licensed operator  
23 may make available for public play only the number of approved video gambling machines specifically  
24 authorized by this part.

25 (2) The video gambling machines specifically authorized by this part are bingo, poker, keno, video  
26 line, [historical horseracing](#), and multigame video gambling machines. Only the number of approved machines  
27 for which permits have been granted under 23-5-612 may be made available for play by the public on the  
28 premises of a licensed operator. The department shall adopt rules allowing a video gambling machine that

1 needs repair to be temporarily replaced while it is being repaired with a video gambling machine that is  
2 approved under the permit provisions of this part. A fee may not be charged for the replacement machine.

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

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

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

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

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

14 (b) within control of the operator for the purpose of preventing access to the machines by persons  
15 under 18 years of age."  
16

17 **Section 4.** Section 23-5-607, MCA, is amended to read:

18 **"23-5-607. Expected payback -- verification.** (1) The department shall prescribe the expected  
19 payback value of credit awarded to be at least 80% of the value of credit played for each bingo, poker, keno,  
20 and video line game in a video gambling machine. The credit ratio may not be greater than 92% for each video  
21 line game.

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

24 [\(3\) This section does not include historical horseracing machines.](#)"  
25

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

27 **"23-5-608. Limitation on amount of money played and value of prizes -- payment of credits in**  
28 **cash -- ticket voucher expiration -- rules.** (1) A video gambling machine may not allow more than \$2 to be

1 played on a game or award free games or credits in excess of \$800 a game. The department shall adopt rules  
2 relating to awards of free games or credits in excess of \$800 a game for historical horseracing.

3 (2) AExcept for a historical horseracing machine, a licensee shall pay in cash all credits owed to a  
4 player as shown on a valid ticket voucher.

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

8  
9 **Section 6.** Section 23-5-610, MCA, is amended to read:

10 **"23-5-610. Video gambling machine gross income tax -- records -- distribution -- quarterly**  
11 **statement and payment.** (1) A licensed machine owner shall pay to the department a video gambling machine  
12 tax of 15% of the gross income from each video gambling machine issued a permit under this part. A licensed  
13 machine owner may deduct from the gross income amounts equal to amounts stolen from machines if the  
14 amounts stolen are not repaid by insurance or under a court order, if a law enforcement agency investigated  
15 the theft, and if the theft is the result of either unauthorized entry and physical removal of the money from the  
16 machines or of machine tampering and the amounts stolen are documented.

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

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

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

28 (5) For the tax collected on historical horseracing machines, the department shall forward the tax

1 collected in subsection (3) as follows:

2 (a) fifty percent is deposited in an account in the state special revenue account as provided in this part.

3 The department shall deduct from the gross deposits into the account an amount sufficient to reimburse the  
4 department's actual costs and expenses in administering historical horseracing; and

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

8

9 **Section 7.** Section 23-5-621, MCA, is amended to read:

10 **"23-5-621. Rules.** (1) The department shall adopt rules that:

11 (a) implement 23-5-637;

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

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

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

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

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

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

1 (f) minimize, whenever possible, the recordkeeping and retention requirements for video gambling  
2 machines that use an approved automated accounting and reporting system; and  
3 (h) implement historical horseracing as provided in this part.

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

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

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

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

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

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

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18 **NEW SECTION. Section 8. Codification instruction.** [Section 1] is intended to be codified as an  
19 integral part of Title 23, chapter 5, part 6, and the provisions of Title 23, chapter 5, part 6, apply to [section 1].

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21 **NEW SECTION. Section 9. Effective date.** [This act] is effective January 1, 2022.

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- END -