

SENATE BILL NO. 84
INTRODUCED BY C. SQUIRES
BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A PROCEDURE FOR FORFEITURE OF SEIZED EVIDENCE IN GAMBLING CASES; PROVIDING FOR PRIVATE VIDEO GAMBLING MACHINE TESTING FACILITIES TO BE LICENSED AS MANUFACTURERS; PROVIDING FOR PUBLIC DISPLAY OF ANTIQUE SLOT MACHINES; PROVIDING REMEDIES TO PURSUE VIOLATIONS BY A LICENSEE FOLLOWING THE EXPIRATION OF A LICENSE OR A PERMIT; PROVIDING FOR MULTIPLE WINNING PATTERNS FOR THE GAME OF BINGO; PROVIDING A DEFINITION OF A BONUS GAME TO BE PLAYED ON A VIDEO GAMBLING MACHINE; INCREASING THE TYPES OF POKER GAMES THAT MAY BE PLAYED ON A POKER MACHINE; PROVIDING RULEMAKING AUTHORITY FOR THE DISPLAY OF IMAGES AND SCREENS FOR VIDEO GAMBLING MACHINES; AMENDING SECTIONS 23-5-112, 23-5-113, 23-5-123, 23-5-152, 23-5-153, 23-5-412, 23-5-602, 23-5-621, AND 23-5-625, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Property subject to forfeiture. (1) The following property is subject to forfeiture:

(a) gambling implements, apparatus, paraphernalia, slips, tickets, and devices kept, possessed, or used in violation of a provision of this chapter;

(b) personal property not listed in subsection (1)(a), including but not limited to motor vehicles and money or negotiable instruments, kept, possessed, derived from, or used in violation of a provision of this chapter.

(2) Personal property is not subject to forfeiture unless the owner of the property had actual or constructive knowledge of and was a consenting party to the illegal act.

NEW SECTION. Section 2. Petition -- summons -- service -- answer. (1) A peace officer that seizes personal property under [section 1] shall within 45 days of the seizure file a petition to institute forfeiture proceedings with the clerk of the district court of the county in which the seizure occurred. The clerk shall issue a summons, which the petitioning party shall by one of the following methods serve upon each owner or claimant of the personal property:

(a) upon an owner or claimant whose name and address are known, by personal service of a copy of the petition and summons as provided in the Montana Rules of Civil Procedure;

(b) upon an owner or claimant whose address is unknown but who is believed to have an interest in the property, by publication of the summons in one issue of a newspaper of general circulation in the county where the seizure occurred or, if there is no such newspaper, by publication in one issue of a newspaper of general circulation in an adjoining county and by mailing a copy of the petition and summons to the most recent address of the owner or claimant, if any, shown in the records of the department.

(2) Within 20 days after service under subsection (1), the owner or claimant of the seized property may file a verified answer to the allegations concerning the use of the property described in the petition. An extension of time for filing the answer may not be granted. Failure to answer within 20 days bars the owner or claimant from presenting evidence at any subsequent evidentiary hearing unless extraordinary circumstances exist.

NEW SECTION. Section 3. Effect of failure to answer -- hearing date following answer. (1) If a verified answer to the petition is not filed within 20 days after service under [section 2], the court, upon motion, shall order the property forfeited to the state.

(2) If a verified answer is filed within 20 days after service under [section 2], the forfeiture proceedings must be set for hearing without a jury, to be held no sooner than 60 days after the answer is filed. Notice of the hearing must be given in the manner provided for service under [section 2].

NEW SECTION. Section 4. Rebuttable presumption of forfeiture -- rebuttal of presumption. (1) There is a rebuttable presumption of forfeiture.

(2) An owner of the personal property who has a verified answer on file may rebut the presumption by proving that the property was not used for the purpose charged or that the use of the property occurred without the owner's knowledge or consent.

(3) A claimant of a security interest in the personal property who has a verified answer on file may preserve the security interest by proving that the security interest:

(a) is bona fide; and

(b) was created after a reasonable investigation of the moral responsibility, character, and reputation of the purchaser of the personal property and without knowledge that the personal property was going to be or was used for the purpose charged.

(4) Subsection (3)(b) does not apply to:

(a) a person who has a lien for making repairs or performing labor upon, furnishing supplies or materials for, or providing storage for or safekeeping of the personal property;

(b) a person doing business under any law of this state or the United States relating to financial institutions, as defined in 32-6-103, loan companies, or licensed pawnbrokers; or

(c) a person regularly engaged in the business of selling or of purchasing conditional sales contracts for that type of personal property.

NEW SECTION. Section 5. Disposition of property. (1) If the court finds that the personal property was not used for the purpose charged or was used without the knowledge or consent of the owner, it shall order the property released to the owner.

(2) If the court finds that the personal property was used for the purpose charged and was used with the knowledge or consent of the owner, the personal property shall be disposed of as follows:

(a) If proper proof of a claim is presented at the hearing by the holder of a security interest, the court shall order the personal property released to the holder of the security interest if the amount due the holder is equal to or in excess of the value of the personal property as of the date of seizure. If the amount due the holder of the security interest is less than the value of the personal property, the personal property may be sold at public auction by the law enforcement agency that seized the personal property in the manner provided by law for the sale of property under execution. The proceeds of the sale must be first used to pay the amount due to the holder of the security interest, with the remainder deposited in the account provided for in subsection (3). Instead of sale at public auction, the law enforcement agency may turn the personal property over to the holder of the security interest. The personal property may not be sold to an officer or employee of the law enforcement agency that seized the property or to a person related to an officer or employee by blood or marriage.

(b) If there is no security interest claimant and the law enforcement agency that seized the personal property wishes to retain the property for its official use, it may do so. If the personal property is not retained, it must be sold at public auction by the law enforcement agency that seized the personal property in the manner provided by law for the sale of property under execution and the proceeds of the sale must be deposited in the account provided for in subsection (3).

(c) If a security interest claimant has presented proper proof of a claim and the law enforcement agency that seized the personal property wishes to retain the property for its official use, it may do so provided it compensates the claimant in the amount of the security interest outstanding at the time of the seizure.

(3) Any forfeited negotiable instruments must be liquidated to cash. All forfeited cash and the proceeds

of liquidated negotiable instruments must be deposited in a state special revenue account to the credit of the department of justice. The department may expend the money deposited in the account only for purposes of enforcement of gambling laws.

(4) In making a disposition of personal property, the court may take any action to protect the rights of innocent persons.

NEW SECTION. Section 6. Pursuing violation by or determining suitability for licensure of person whose license has expired. The expiration of a license or permit issued under this chapter does not prevent the department from pursuing a violation by the person holding the license or permit or from determining that person's suitability for a future license or permit.

Section 7. 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) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected by the department and that randomly selects the numbers.

(4) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns of 5 squares each, 25 squares in all. 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 number must appear in each square, except for the center square, which may be considered a free play. Numbers are 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.

(5) "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.

(6) "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.

(7) "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.

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

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

(10) "Distributor" means a person who:

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

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

(11) (a) "Gambling" or "gambling activity" means risking any money, credit, deposit, check, property, or ~~any~~ 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 a promotional game of chance and does not include amusement games regulated by Title 23, chapter 6, part 1.

(12) "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.

(13) "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.

(14) (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:

~~(a)~~(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;

~~(b)~~(ii) a promotional game of chance; or

~~(c)~~(iii) an amusement game regulated under Title 23, chapter 6 ~~of this title~~.

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

(16) "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, ~~of this title~~ or under part 5 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, or craps table or a slot machine except as provided in 23-5-153.

(17) "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, ~~of this title~~ and parts 2, 5, and 8 of this chapter; and

(d) credit gambling.

(18) "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.

(19) "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.

(20) "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.

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

(22) "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.

(23) (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 ~~of this title~~.

(24) "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; or

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

(25) "Nonprofit organization" means a nonprofit corporation or nonprofit charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, senior citizens', or service organization established for purposes other than to conduct a gambling activity.

(26) "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.

(27) "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.

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

(29) "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.

(30) "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.

(31) "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.

(32) "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.

(33) "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.

(34) "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.

(35) (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.

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

Section 8. Section 23-5-113, MCA, is amended to read:

"23-5-113. Department as criminal justice agency --seized property. (1) The department is a criminal justice agency. Designated agents of the department are granted peace officer status, with the power of search, seizure, and arrest, to investigate gambling activities in this state regulated by parts 1 through 8 of this chapter and the rules of the department and to report violations to the county attorney of the county in which they occur.

(2) ~~Upon conviction for any violation of parts 1 through 8 of this chapter, the court may order any property seized by a department or local law enforcement agent during a lawful search to be forfeited to the department,~~

~~sold, if necessary, and disposed of under 23-5-123."~~

Section 9. Section 23-5-123, MCA, is amended to read:

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

Section 10. Section 23-5-152, MCA, is amended to read:

"23-5-152. Possession of illegal gambling device or conducting illegal gambling enterprise prohibited -- exceptions. (1) Except as provided in 23-5-153 and subsections (2) through (5) of this section, it is a misdemeanor punishable under 23-5-161 for a person to purposely or knowingly:

(a) have in the person's possession or under the person's control or permit to be placed, maintained, or kept in any room, space, enclosure, or building owned, leased, or occupied by or under the person's management or control an illegal gambling device; or

(b) operate an illegal gambling enterprise.

(2) Subsection (1) does not apply to a public officer or to a person coming into possession of an illegal gambling device in or by reason of the performance of an official duty and holding it to be disposed of according to law.

(3) (a) The department may adopt rules to license persons to manufacture gambling devices that are not legal for public play in the state.

(b) A person may not manufacture an illegal gambling device without having obtained a license from the department. The department may charge an administrative fee for the license that is commensurate with the cost of issuing the license.

(4) (a) A person licensed under subsection (3) may conduct only those activities authorized under this subsection (4).

(b) A licensee may bring an illegal gambling device, including an illegal video gambling machine, into the state if:

(i) the illegal gambling device contains a component that will be used by the licensee to manufacture an illegal gambling device for export from the state; or

(ii) the illegal gambling device will be reconditioned, refurbished, repaired, tested, or otherwise

substantially modified in preparation for export from the state; and

(iii) the illegal gambling device will be exported from the state; and

(iv) the licensee has notified the department and received authorization from the department to bring the illegal gambling device into the state. The licensee is subject to reporting requirements provided for in rules adopted under subsection (3)(a).

(c) A licensee may also bring an illegal video gambling machine into the state if:

(i) the illegal video gambling machine will be reconditioned, refurbished, repaired, or otherwise substantially modified for conversion to an authorized video gambling machine; and

(ii) the licensee has notified the department and has received authorization from the department to bring the illegal video gambling machine into the state. The licensee is subject to reporting requirements provided for in rules adopted under subsection (3)(a).

(5) An illegal gambling device may be possessed or located for display purposes only and not for operation:

(a) in a public or private museum; or

(b) in any other public place if the device has been made permanently inoperable for purposes of conducting a gambling activity."

Section 11. Section 23-5-153, MCA, is amended to read:

"23-5-153. Possession and sale of antique slot machines. (1) For the purposes of this section, an antique slot machine is a mechanically or electronically operated slot machine that at any present time is more than 25 years old.

(2) Except as provided in subsection (3), an antique slot machine may be possessed, located, and operated only in a private residential dwelling.

(3) (a) An antique slot machine may be possessed or located for purposes of display only and not for operation;

(i) in any a public or private museum; or

(ii) owned and operated by the state, a county, or a city in any other public place if the machine has been made permanently inoperable for purposes of conducting a gambling activity.

(b) A licensed manufacturer-distributor or a person licensed under subsection (4) may possess antique slot machines for purposes of commercially selling or otherwise supplying the machines.

(4) A person other than a licensed manufacturer-distributor may not sell more than three antique slot

machines in a 12-month period without first obtaining from the department an annual license for selling the machines. The fee for the license is \$50 a year. The fee must be retained by the department for administrative purposes. The department may not issue a license under this subsection to a licensed operator.

(5) A person or entity legally possessing a slot machine under subsection (2) or (3) may sell or otherwise supply a machine to another person or entity who may legally possess a slot machine.

(6) An antique slot machine may not be operated for any commercial or charitable purpose."

Section 12. Section 23-5-412, MCA, is amended to read:

"23-5-412. Card prices and prizes -- exception. (1) Except as provided in subsection (3):

(a) the price for an individual bingo or keno card may not exceed 50 cents;

(b) a prize may not exceed the value of \$100 for each individual bingo game or keno card; and

(c) it is unlawful to, in any manner, combine any bingo or keno games so as to increase the ultimate value of the prize.

(2) Bingo and keno prizes may be paid in either tangible personal property or cash.

(3) (a) A variation of the game of keno, as approved by the department, in which a player selects three or more numbers and places a wager on various combinations of these numbers is permissible if:

~~(a)~~(i) no more than 50 cents is wagered on each combination of numbers; and

~~(b)~~(ii) a winning combination does not pay more than \$100.

(b) A variation of the game of bingo, as approved by the department, in which prizes may be awarded for each winning bingo pattern on a card is permissible if:

(i) no more than 50 cents is wagered on each bingo pattern; and

(ii) a winning pattern does not pay more than \$100.

(4) A player may give a keno caller a card with instructions on the card to play that card and its marked numbers for up to the number of successive games that the house allows and that the player has indicated on the card, upon payment of the price per game times the number of successive games indicated. The player shall remain on the house premises until the card is played or withdrawn. The caller shall keep the card until the end of the number of games indicated, and the department may by rule provide that at that time the caller shall pay the player any prizes won.

(5) If a licensed operator conducts a promotional game of chance involving bingo or keno, the prize limit provided for in subsection (1) applies to prizes awarded as a result of the promotional game of chance."

Section 13. Section 23-5-602, MCA, is amended to read:

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

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

(2) "Available connection date" means the date on which the department begins to accept applications for connection of machines to the automated accounting and reporting system.

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

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

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

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

~~(4) (a) "Draw poker machine" means an electronic video gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker as defined by rules of the department. The machine uses a video display and microprocessors in which, by the skill of the player, by chance, or by both, the player may receive free games or credits that may be redeemed for cash.~~

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

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

(6) (a) "Keno machine" means an electronic video gambling machine that, upon insertion of cash, is

available to play keno, as defined by rules of the department. The machine uses a video display and microprocessors ~~in which~~ and, by the skill of the player, by chance, or by both, allows the player ~~may to~~ receive free games, bonus games, or credits that may be redeemed for cash.

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

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

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

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

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

Section 14. Section 23-5-621, MCA, is amended to read:

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

(a) implement 23-5-637;

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

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

(d) allow each video gambling machine approved for connection to the department's automated accounting and reporting system to offer any combination of approved poker, keno, and bingo games within the same video gambling machine cabinet if:

(i) after October 1, 2002, the owner of the video gambling machine has received approval of an application for connection of the machine to the automated accounting and reporting system or has entered into an agreement with the department for connection of the machine to the system; or

(ii) after October 1, 2003, the owner of the video gambling machine has received approval of an application for connection of the machine to the automated accounting and reporting system or has entered into an agreement with the department for connection of the machine to the system, but the system is unavailable for connection;

(e) allow, on an individual license basis, licensed machine owners and operators of machines connected to the department's automated accounting and reporting system to:

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

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

(f) provide that, for video gambling machines connected to the department's automated accounting and reporting system, machine paper audit and accounting rolls need not be retained for more than 4 consecutive quarters; and

(g) minimize, whenever possible, the recordkeeping and retention requirements for video gambling machines that are connected to the department's automated accounting and reporting system.

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

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

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

(c) limit and prescribe the circumstances for electronic issuance of video gambling machine permits and electronic transfer of funds for payment of taxes, fees, or penalties to the department based on the requirement that electronic permitting and transfer of funds may be done only when the department has a request in writing from the owner of the electronic funds transfer account;

(d) limit and prescribe the circumstances under which machines may be disabled for malfunctions or violations detected by use of the automated accounting and reporting system or for other violations of this chapter. Under no circumstances may machines connected to the automated system be disabled for violations except upon clear and convincing evidence supporting a determination made after notice and an opportunity for hearing and with the right of judicial review under the Montana Administrative Procedure Act.

(e) provide for training by the department of technicians who install, maintain, and repair video gambling

machines and components connected to the automated accounting and reporting system and for a department list of technicians who have completed department training."

Section 15. Section 23-5-625, MCA, is amended to read:

"23-5-625. Video gambling machine manufacturer -- license -- fees -- restrictions. (1) It is unlawful for any person to assemble, produce, test, or manufacture any video gambling machine or associated equipment for use or play in the state without having first been issued a video gambling machine manufacturer's license by the department. A licensed manufacturer may supply a video gambling machine only to another licensed manufacturer or to a licensed distributor, route operator, or operator.

(2) Except as provided in subsection (6), the department shall charge an annual license fee of \$1,000 for the issuance or renewal of a video gambling machine manufacturer's license.

(3) Except as provided in subsection (6), the department may charge the applicant an additional, one-time video gambling machine manufacturer's license application processing fee. The application processing fee may not exceed the department's actual costs for processing an application.

(4) All video gambling machine manufacturer's licenses expire on June 30 of each year, and the license fee may not be prorated.

(5) The department shall retain the license and processing fees collected for purposes of administering this part, unless otherwise provided.

(6) The department may waive the license fee provided for in subsection (2) if the applicant is licensed as a distributor or route operator and may waive the application processing fee provided for in subsection (3) if the applicant is licensed as a distributor, route operator, or operator."

NEW SECTION. Section 16. Codification instruction. [Sections 1 through 6] are intended to be codified as an integral part of Title 23, chapter 5, part 1, and the provisions of Title 23, chapter 5, part 1, apply to [sections 1 through 6].

NEW SECTION. Section 17. Effective date. [This act] is effective July 1, 2005.

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