

## 1 SENATE BILL NO. 25

2 INTRODUCED BY M. BLASDEL

3 BY REQUEST OF THE DEPARTMENT OF JUSTICE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING GAMING LAWS; PROVIDING THAT  
6 "GAMBLING" OR "GAMBLING ACTIVITY" DOES NOT INCLUDE CONDUCTING OR PARTICIPATING IN  
7 CERTAIN SOCIAL FANTASY SPORTS LEAGUES; REVISING DEFINITIONS; REVISING LAWS RELATED TO  
8 RAFFLES; REVISING THE OFFENSE OF TAMPERING WITH A VIDEO GAMBLING MACHINE; REVISING  
9 WHEN PERMITS FOR VIDEO GAMBLING MACHINES ON PREMISES WITHIN 150 FEET OF EACH OTHER  
10 MAY BE GRANTED; REVISING THE DEPARTMENT OF JUSTICE'S RULEMAKING AUTHORITY; AND  
11 AMENDING SECTIONS 23-5-112, 23-5-413, 23-5-622, AND 23-5-629, MCA."

12

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

14

15 **Section 1.** Section 23-5-112, MCA, is amended to read:16 **"23-5-112. Definitions.** Unless the context requires otherwise, the following definitions apply to parts  
17 1 through 8 of this chapter:18 (1) "Applicant" means a person who has applied for a license or permit issued by the department  
19 pursuant to parts 1 through 8 of this chapter.20 (2) "Application" means a written request for a license or permit issued by the department. The  
21 department shall adopt rules describing the forms and information required for issuance of a license.22 (3) "Associated gambling business" means a person who provides a service or product to a licensed  
23 gambling business and who:24 (a) has a reason to possess or maintain control over gambling devices;  
25 (b) has access to proprietary information or gambling tax information; or  
26 (c) is a party in processing gambling transactions.27 (4) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected  
28 by the department and that randomly selects the numbers.29 (5) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns.  
30 The letters B-I-N-G-O must appear above the design, with each letter above one of the columns. More than 75

1 numbers may not be used. One or more numbers may appear in each square, except for the center square,  
2 which may be considered a free play. Numbers must be randomly drawn using authorized equipment until the  
3 game is won by the person or persons who first cover one or more previously designated arrangements of  
4 numbers on the bingo card.

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

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

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

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

12 (b) operated by a senior citizen center.

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

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

17 (11) "Department" means the department of justice.

18 (12) "Distributor" means a person who:

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

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

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

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

26 (i) a promotional game games of chance; and does not include

27 (ii) amusement games regulated by Title 23, chapter 6, part 1:

28 (e)(iii) The term does not include social card games of bridge, cribbage, hearts, pinochle, pitch, rummy,  
29 solo, and whist played solely for prizes of minimal value, as defined by department rule; or

30 (iv) social fantasy sports leagues that charge no more than a \$35 entry fee and are played for prizes of

1     minimal value, as defined by department rule, continue for the length of the season, and impose no charge for  
2     draft picks or trades and whose sponsoring vendor registers with the department.

3                 (14) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot  
4     machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling  
5     activity.

6                 (15) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme,  
7     or agreement to provide gambling or a gambling device to the public.

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

10                 (b) The term does not mean:

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

13                     (ii) a promotional game of chance; or

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

15                     (iv) a savings promotion raffle offered by a credit union and conducted in compliance with 23-5-413 that  
16     entitles individual members or depositors equal chances to win a designated prize by depositing a sum of money  
17     during a specified savings period; or

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

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

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

24                 (19) "Illegal gambling device" means a gambling device not specifically authorized by statute or by the  
25     rules of the department. The term includes:

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

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

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

(a) a card game, by whatever name known, involving any bank or fund from which a participant may win or other consideration and that receives money or other consideration lost by the participant and includes 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 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 event, including bookmaking, parlay bets, or sultan sports cards, but not including those activities listed in Title 23, chapter 4, and parts 2, 5, and 8 of this chapter;

(d) credit gambling; and

(e) internet gambling.

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

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

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

(23) "Keno caller" means a person 18 years of age or older who, using authorized equipment, announces

1 the order of the numbers drawn in live keno.

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

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

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

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

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

13 (28) "Manufacturer" means a person who:

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

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

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

22 (29) "Nonprofit organization" means a nonprofit corporation or ~~nonprofit an organization established to~~  
23 ~~support~~ charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, senior citizens', or  
24 service organization ~~established to support organizations'~~ charitable activities, scholarships or educational grants,  
25 or community service projects.

26 (30) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and  
27 operates or controls for use in public a gambling device or gambling enterprise authorized under parts 1 through  
28 8 of this chapter.

29 (31) "Permit" means approval from the department to make available for public play a gambling device  
30 or gambling enterprise approved by the department pursuant to parts 1 through 8 of this chapter.

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

(33) "Premises" means the physical building or property within or upon which a licensed gambling activity as stated on an operator's license application and approved by the department.

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

(35) "Public gambling" means gambling conducted in:

- (a) a place, building, or conveyance to which the public has access or may be permitted to have access;
- (b) a place of public resort, including but not limited to a facility owned, managed, or operated by a  
ship, corporation, association, club, fraternal order, or society, including a religious or charitable  
ation; or

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

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

(37) "Route operator" means a person who:

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

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

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

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

(39) (a) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any sum of money, the 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 using the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner.

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

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

10

**Section 2.** Section 23-5-413, MCA, is amended to read:

12       **"23-5-413. Raffle prizes -- investigations -- rulemaking.** (1) (a) The department shall investigate all  
13        violations of this part.

14 (b) The department may adopt rules to require recordkeeping for receipts and payouts under this part  
15 and to establish procedures to ensure the fair selection of winners.

16 (2) (a) A person or organization conducting a raffle shall own all prizes to be awarded as part of the raffle  
17 before the sale of any tickets.

18 (b) The value of a prize awarded for an individual ticket for a raffle conducted by a person or an  
19 organization may not exceed \$5,000. Prizes may not be combined in any manner to increase the ultimate value  
20 of the prize awarded for each ticket.

21 (c) The provisions of subsections (2)(a) and (2)(b) do not apply to a nonprofit organization, a college,  
22 a university, a public school district as provided in 20-6-101 and 20-6-701, or a nonpublic school as described  
23 in 20-5-102(2)(e). The proceeds from the sale of tickets for a raffle conducted by a nonprofit organization, college,  
24 university, or school district may be used only for charitable purposes or to pay for prizes and may not be used  
25 for the administrative costs of conducting the raffle.

26 (3) (a) The sale of raffle tickets authorized by this part is restricted to events and participants within the  
27 geographic confines of the state. Nonprofit organizations may sell raffle tickets outside the state of Montana if  
28 the purchase is not prohibited in the jurisdiction in which the purchaser resides.

29 (b) The sale of raffle tickets may not be conducted over the internet. All raffle announcements or  
30 advertisements conducted over the internet must include this sale restriction, the name of the organization

1 offering the raffle, and all raffle terms."

2

3 **Section 3.** Section 23-5-622, MCA, is amended to read:

4 **"23-5-622. Tampering with video gambling machine -- penalty.** (1) A person commits the offense of  
5 tampering with a video gambling machine if the person purposely or knowingly:

6 (a) manipulates or attempts or conspires to manipulate the outcome or payoff of a video gambling  
7 machine by physical tampering or other interference with the proper functioning of the machine; or

8 (b) exploits a hardware or software feature or combination of features that alters the video gambling  
9 machine's intended and approved functioning, including:

10 (i) causing the machine to register more value in credits than deposited or won through play;

11 (ii) altering the chance element of the game;

12 (iii) altering the pay table of the game; or

13 (iv) permitting play contrary to the posted rules or recognized rules of play.

14 (2) A violation of this section is a felony and must be punished in accordance with 23-5-162."

15

16 **Section 4.** Section 23-5-629, MCA, is amended to read:

17 **"23-5-629. Permit for premises within 150 feet of another premises.** (1) (a) A licensee may not be  
18 granted a permit for video gambling machines allowed on a premises under 23-5-611 if, at the time of application  
19 for the permit, the licensee's premises are within 150 feet of, or have an external structural connection not  
20 amounting to a common internal wall, as that term is used in 23-5-117, to, a premises that already has a permit  
21 for video gambling machines allowed on a premises under 23-5-611 and if the two premises have one or more  
22 common owners and operate in an interrelated manner, as defined by department rule. A measurement of the  
23 distance between two premises must be taken between the nearest exterior wall of each premises.

24 (b) A premises for which an on-premises alcoholic beverages license was granted, was applied for, or  
25 the transfer of which was validly contracted for prior to February 1, 1995, is not subject to subsection (1)(a) during  
26 the 10-year period following October 1, 1995. A premises licensed before January 1, 1985, is not subject to  
27 subsection (1)(a) for as long as ownership remains within the immediate family that owned the premises on  
28 January 1, 1985, if ownership of the premises on October 1, 1995, was within the immediate family that owned  
29 the premises on January 1, 1985.

30 (2) For purposes of this section, the following definitions apply:

(a) "Affiliate" means a person or entity that controls, is controlled by, or is under common control with another person or entity. The term includes but is not limited to a premises that has:

(i) shareholders, partners, or other individual owners, by trust or otherwise, who are also shareholders, or individual owners, by trust or otherwise, of the other premises;

(ii) shareholders, partners, or other individual owners, by trust or otherwise, who are income taxpayers to the shareholders, partners, or other individual owners, by trust or otherwise, of the other premises;

(iii) an agreement with the other premises or the other premises' shareholders, partners, or other joint owners, by trust or otherwise, for the ownership and operation of gaming equipment if the agreement includes financial components, such as a landlord and tenant relationship or noninstitutional financing; or

(iv) a premises rental agreement with the other premises or its shareholders, partners, or other individual(s), by trust or otherwise, at a rental rate other than the market rental rate, as determined by a Montana independent appraisers association appraisal done at the time that the rental rate is set or changed.

(b) "Common owner" means an affiliate, immediate family member, manager, parent or subsidiary business entity, investor, person or entity with a commonality of business interests, or other person or entity able to influence the operator or manager of the premises or to prevent the operator or manager from fully pursuing the premises' separate interests.

(c) "Commonality of business interests" means:

(i) a contract, deed, contract for deed, concession agreement, or lease, rental, or other agreement concerning real property, with the same person or entity, except:

(A) a commercial mall with at least 50,000 square feet and at least eight separate businesses; or

(B) an agreement by a licensee to lease premises from a person or entity that also leases other premises in the same building or structure to one or more licensees if there is no other common ownership between any licensees; or

(ii) that the same person or entity, except a financial institution, provides the financing for:

(A) the purchase of the liquor license;

(B) the purchase of the premises; or

(C) operating expenses of more than \$25,000, except for expenses allowed under 23-5-130.

(d) "Control" means the power to cause or direct management and policies through ownership, contract, or otherwise.

(e) "Immediate family" means a parent, children, siblings, grandchildren, grandparents, nieces, and

1 nephews.

2 (f) "Investor" means a person who:

3 (i) advances or pledges to advance funds with the expectation of a specified or unspecified return;

4 (ii) guarantees a loan, except a loan guaranteed by a route operator who would not otherwise be  
5 considered a common owner; or

6 (iii) has an option to participate in the premises."

7

8 **NEW SECTION. Section 5. Severability.** If a part of [this act] is invalid, all valid parts that are severable  
9 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part  
10 remains in effect in all valid applications that are severable from the invalid applications.

11 - END -