

SENATE BILL NO. 25

INTRODUCED BY M. BLASDEL

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING GAMBLING LAWS; ALLOWING HEADS OR TAILS GAMES BY NONPROFIT ORGANIZATIONS; ALLOWING ANTIQUE GAMBLING DEVICES; REVISING LAWS RELATING TO SPORTS POOLS OR SPORTS TAB GAMES; REQUIRING SPORTS POOLS AND SPORTS TAB GAMES TO BE CONDUCTED ONLY BY LICENSED ENTITIES; AND AMENDING SECTIONS 23-5-112, 23-5-152, 23-5-153, 23-5-405, 23-5-502, AND 23-5-503, MCA."

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

NEW SECTION. Section 1. Heads or tails game -- restrictions. (1) Only a nonprofit organization may sponsor and conduct a heads or tails game. Sponsors of a heads or tails game must identify themselves in promotions or announcements.

(2) All entry fees paid to play a heads or tails game must be divided between the sponsor and the winner of the game. At least 50% of the total amount of the entry fees must be paid to the sponsor. No part of the entry fees may be applied to administrative fees.

(3) A heads or tails game may be played at any public premises. If held on the premises of a licensed gambling operator, the activity must be managed by the sponsoring nonprofit organization and all marketing or promotions must clearly identify the sponsor.

(4) The individual tossing the coin and all participants in a heads or tails game must be physically present where the game takes place.

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

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

(1) "Antique gambling device" means:

(a) an illegal gambling device manufactured prior to 1994; or

(b) any gambling device which, at any present time, is 30 years old or older.

1 ~~(1)~~(2) "Applicant" means a person who has applied for a license or permit issued by the department
2 pursuant to parts 1 through 8 of this chapter.

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

5 ~~(3)~~(4) "Associated gambling business" means a person who provides a service or product to a licensed
6 gambling business and who:

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

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

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

10 ~~(4)~~(5) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be
11 inspected by the department and that randomly selects the numbers.

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

18 ~~(6)~~(7) "Bingo caller" means a person 18 years of age or older who, using authorized equipment,
19 announces the order of the numbers drawn in live bingo.

20 ~~(7)~~(8) "Bingo session" means all activities incidental to a series of bingo games conducted by a licensed
21 operator beginning when the first bingo ball is drawn in the first game of bingo.

22 ~~(8)~~(9) "Card game table" or "table" means a live card game table:

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

25 (b) operated by a senior citizen center.

26 ~~(9)~~(10) "Card game tournament" means a gambling activity for which a permit has been issued involving
27 participants who pay valuable consideration for the opportunity to compete against each other in a series of live
28 card games conducted over a designated period of time.

29 ~~(10)~~(11) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

30 ~~(11)~~(12) "Department" means the department of justice.

1 ~~(12)~~(13) "Distributor" means a person who:

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

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

5 ~~(13)~~(14) (a) "Gambling" or "gambling activity" means risking any money, credit, deposit, check, property,
6 or other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a
7 gambling device or gambling enterprise.

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

9 (i) promotional games of chance;

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

11 (iii) social card games of bridge, cribbage, hearts, pinochle, pitch, rummy, solo, and whist played solely
12 for prizes of minimal value, as defined by department rule.

13 ~~(14)~~(15) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot
14 machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling
15 activity.

16 ~~(15)~~(16) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity,
17 scheme, or agreement to provide gambling or a gambling device to the public.

18 ~~(16)~~(17) (a) "Gift enterprise" means a gambling activity in which persons have qualified to obtain property
19 to be awarded by purchasing or agreeing to purchase goods or services.

20 (b) The term does not mean:

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

23 (ii) a promotional game of chance;

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

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

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

- 1 ~~(17)~~(18) "Gross proceeds" means gross revenue received less prizes paid out.
- 2 (19) "Heads or tails" means a gambling activity in which players attempt to predict the outcome of a coin
3 toss. Those who are incorrect are eliminated and those who are correct continue to another round until one
4 winning player remains and is awarded a prize.
- 5 ~~(18)~~(20) "House player" means a person participating in a card game who has a financial relationship
6 with the operator, card room contractor, or dealer or who has received money or chips from the operator, card
7 room contractor, or dealer to participate in a card game.
- 8 ~~(19)~~(21) "Illegal gambling device" means a gambling device not specifically authorized by statute or by
9 the rules of the department. The term includes:
- 10 (a) a ticket or card, by whatever name known, containing concealed numbers or symbols that may match
11 numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push card, tip
12 board, pickle ticket, break-open, or jar game, except for one used under Title 23, chapter 7, under part 5 of this
13 chapter, in a bingo game approved by the department under part 4 of this chapter, or in a promotional game of
14 chance approved by the department; and
- 15 (b) an apparatus, implement, or device, by whatever name known, specifically designed to be used in
16 conducting an illegal gambling enterprise, including a faro box, faro layout, roulette wheel, roulette table, craps
17 table, or slot machine, except as provided in 23-5-153.
- 18 ~~(20)~~(22) "Illegal gambling enterprise" means a gambling enterprise that violates or is not specifically
19 authorized by a statute or a rule of the department. The term includes:
- 20 (a) a card game, by whatever name known, involving any bank or fund from which a participant may win
21 money or other consideration and that receives money or other consideration lost by the participant and includes
22 the card games of blackjack, twenty-one, jacks or better, baccarat, or chemin de fer;
- 23 (b) a dice game, by whatever name known, in which a participant wagers on the outcome of the roll of
24 one or more dice, including craps, hazard, or chuck-a-luck, but not including activities authorized by 23-5-160;
- 25 (c) sports betting, by whatever name known, in which a person places a wager on the outcome of an
26 athletic event, including bookmaking, parlay bets, or sultan sports cards, but not including those activities
27 authorized in Title 23, chapter 4, and parts 2, 5, and 8 of this chapter;
- 28 (d) credit gambling; and
- 29 (e) internet gambling.
- 30 ~~(21)~~(23) (a) "Internet gambling", by whatever name known, includes but is not limited to the conduct of

1 any legal or illegal gambling enterprise through the use of communications technology that allows a person using
2 money, paper checks, electronic checks, electronic transfers of money, credit cards, debit cards, or any other
3 instrumentality to transmit to a computer information to assist in the placing of a bet or wager and corresponding
4 information related to the display of the game, game outcomes, or other similar information.

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

11 ~~(22)~~(24) "Keno" means a game of chance in which prizes are awarded using a card with 8 horizontal rows
12 and 10 columns on which a player may pick up to 10 numbers. A keno caller, using authorized equipment, shall
13 select at random at least 20 numbers out of numbers between 1 and 80, inclusive.

14 ~~(23)~~(25) "Keno caller" means a person 18 years of age or older who, using authorized equipment,
15 announces the order of the numbers drawn in live keno.

16 ~~(24)~~(26) "License" means a license for an operator, dealer, card room contractor, manufacturer of devices
17 not legal in Montana, sports tab game seller, manufacturer of electronic live bingo or keno equipment, other
18 manufacturer, distributor, or route operator that is issued to a person by the department.

19 ~~(25)~~(27) "Licensee" means a person who has received a license from the department.

20 ~~(26)~~(28) "Live card game" or "card game" means a card game that is played in public between persons
21 on the premises of a licensed gambling operator or in a senior citizen center.

22 ~~(27)~~(29) (a) "Lottery" means a scheme, by whatever name known, for the disposal or distribution of
23 property among persons who have paid or promised to pay valuable consideration for the chance of obtaining
24 the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or
25 expectation that it is to be distributed or disposed of by lot or chance.

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

27 ~~(28)~~(30) "Manufacturer" means a person who:

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

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

2 or

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

6 ~~(29)~~(31) "Nonprofit organization" means an organization established as a nonprofit to support charitable,
7 religious, scholastic, educational, veterans', fraternal, beneficial, civic, senior citizens', or service organizations'
8 charitable activities, scholarships or educational grants, or community service projects.

9 ~~(30)~~(32) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and
10 operates or controls for use in public a gambling device or gambling enterprise authorized under parts 1 through
11 8 of this chapter.

12 ~~(31)~~(33) "Permit" means approval from the department to make available for public play a gambling
13 device or gambling enterprise approved by the department pursuant to parts 1 through 8 of this chapter.

14 ~~(32)~~(34) "Person" or "persons" means both natural and artificial persons and all partnerships,
15 corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

16 ~~(33)~~(35) "Premises" means the physical building or property within or upon which a licensed gambling
17 activity occurs, as stated on an operator's license application and approved by the department.

18 ~~(34)~~(36) "Promotional game of chance" means a scheme, by whatever name known, for the disposal or
19 distribution of property among persons who have not paid or are not expected to pay any valuable consideration
20 or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the
21 property, a portion of it, or a share in it. The property is disposed of or distributed by simulating a gambling
22 enterprise authorized by parts 1 through 8 of this chapter or by operating a device or enterprise approved by the
23 department that was manufactured or intended for use for purposes other than gambling.

24 ~~(35)~~(37) "Public gambling" means gambling conducted in:

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

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

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

1 ~~(36)~~(38) "Raffle" means a form of lottery in which each participant pays valuable consideration for a ticket
2 to become eligible to win a prize. Winners must be determined by a random selection process approved by
3 department rule.

4 ~~(37)~~(39) "Route operator" means a person who:

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

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

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

10 ~~(38)~~(40) "Senior citizen center" means a facility operated by a nonprofit or governmental organization that
11 provides services to senior citizens in the form of daytime or evening educational or recreational activities and
12 does not provide living accommodations to senior citizens. Services qualifying under this definition must be
13 recognized in the state plan on aging adopted by the department of public health and human services.

14 ~~(39)~~(41) (a) "Slot machine" means a mechanical, electrical, electronic, or other gambling device,
15 contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon
16 payment of any valuable consideration, is available to play or operate, the play or operation of which, whether
17 by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the
18 person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything
19 of value, whether the payoff is made automatically from the machine or in any other manner.

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

21 ~~(40)~~(42) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter
22 and the rules of the department."
23

24 **Section 3.** Section 23-5-152, MCA, is amended to read:

25 **"23-5-152. Possession of illegal gambling device or conducting illegal gambling enterprise**
26 **prohibited -- exceptions.** (1) Except as provided in 23-5-153 and subsections (2) through ~~(6)~~ (5) of this section,
27 it is a misdemeanor punishable under 23-5-161 for a person to purposely or knowingly:

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

1 (b) operate an illegal gambling enterprise.

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

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

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

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

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

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

16 (ii) the illegal gambling device will be reconditioned, refurbished, repaired, tested, or otherwise
17 substantially modified in preparation for export from the state; and

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

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

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

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

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

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

30 (a) in a public or private museum; or

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

3 ~~(6) An antique illegal gambling device may be possessed by a licensed retail business establishment~~
4 ~~for purposes of resale and not for operation as provided in 23-5-153."~~

5
6 **Section 4.** Section 23-5-153, MCA, is amended to read:

7 **"23-5-153. Possession and sale of antique illegal gambling devices.** (1) ~~For the purposes of this~~
8 ~~section, an antique illegal gambling device is an illegal gambling device that at any present time is more than 25~~
9 ~~years old.~~ Subject to the requirements of subsection (4), a person may possess, sell, purchase, or transfer an
10 antique gambling device. The person possessing the antique gambling device bears the burden of demonstrating
11 that the device qualifies as an antique gambling device. Proof of qualification may be demonstrated by a date on
12 an original, authentic manufacturer's serial number plate affixed to the gambling device or by other reliable
13 documentation.

14 (2) ~~Except as provided in 23-5-152(6) and subsection (3) of this section, an~~ An antique illegal gambling
15 device may be possessed, located, and operated only in:

16 (a) a licensed gambling operation when authorized by law and permitted under part 6 of this chapter;
17 or

18 (b) a private residential dwelling.

19 (3) (a) ~~An antique illegal gambling device may be possessed or located for purposes of display only and~~
20 ~~not for operation:~~

21 ~~(i) in a retail business establishment or public or private museum; or~~

22 ~~(ii) in any other public place if the device has been made permanently~~ is inaccessible to the public or is
23 inoperable for purposes of conducting a gambling activity.

24 (b) A licensed manufacturer-distributor or a person licensed under subsection (4) may possess antique
25 ~~illegal~~ gambling devices for purposes of commercially selling or otherwise supplying the devices.

26 (4) A person other than a licensed manufacturer-distributor may not sell more than three antique ~~illegal~~
27 gambling devices in a 12-month period without first obtaining from the department a license for selling the antique
28 ~~illegal~~ gambling devices. The fee for the license is \$50, and the license is valid for 3 years from the date that the
29 license is issued. The fee must be retained by the department for administrative purposes. ~~The department may~~
30 ~~not issue a license under this subsection to a licensed operator.~~

1 ~~(5) A person or entity legally possessing an antique illegal gambling device under subsection (2) or (3)~~
 2 ~~may sell or otherwise supply a device to another person or entity who may legally possess an illegal gambling~~
 3 ~~device.~~

4 ~~————(6) An antique illegal gambling device may not be operated for any commercial or charitable purpose."~~
 5

6 **Section 5.** Section 23-5-405, MCA, is amended to read:

7 **"23-5-405. Authorized live bingo, keno, and raffles, and heads or tails.** (1) A person may conduct
 8 or participate in a live bingo ~~and or~~ keno game, ~~or raffle, or heads or tails game~~ only if it is operated pursuant to
 9 this part.

10 (2) This part does not apply to a game simulated on a video gambling machine authorized by part 6 of
 11 this chapter."

12

13 **Section 6.** Section 23-5-502, MCA, is amended to read:

14 **"23-5-502. Sports pools and sports tab games authorized -- tax.** (1) Conducting or participating in
 15 sports pools and sports tab games as defined and governed in this part is lawful, except that:

16 (a) sports pools and sports tab games may be conducted only by a licensed gambling operator on
 17 premises appropriately licensed to sell alcoholic beverages for consumption on the premises as provided in
 18 23-5-119; and

19 (b) only a licensee of premises that are located in an incorporated city or town with a population of less
 20 than 100 or located outside the boundaries of an incorporated city or town and that are appropriately licensed
 21 to sell alcoholic beverages for consumption on the premises under 23-5-119 may conduct a race between
 22 animals and conduct one or more sports pools on the race. The race may be conducted only if it is between pigs,
 23 gerbils, or hamsters and is conducted on the premises but outside of interior areas of the establishment where
 24 food and beverages are usually stored, prepared, or served.

25 (2) A sports tab game seller licensed under 23-5-513 who sells sports tabs for use in a sports tab game
 26 shall collect from the purchaser, at the time of sale, a tax of \$1 for each 100 sports tabs sold and, within 15 days
 27 after the end of each calendar quarter, submit to the department any forms required by the department and the
 28 proceeds of the collected tax. The sports tab game seller shall keep a record of taxes collected as required by
 29 department rule. The records must be made available for inspection by the department upon request of the
 30 department. The department shall retain the proceeds of the tax to administer this part."

- 1
- 2 **Section 7.** Section 23-5-503, MCA, is amended to read:
- 3 **"23-5-503. Rules.** (1) (a) The card or other device used for recording the sports pool or sports tab game
- 4 must clearly indicate in advance of the sale of any chances:
- 5 (i) the number of chances to be sold in that specific pool;
- 6 (ii) the name of the event or series of events;
- 7 (iii) the consideration to be paid for each chance; and
- 8 (iv) the total amount or percentage to be paid to the winners.
- 9 (b) The sports tabs must be purchased from a sports tab game seller licensed under 23-5-513.
- 10 (2) (a) Each sports tab must be sold for the same amount, which may not exceed \$25. A chance to
- 11 participate in a sports pool may be sold in any combination so long as each chance is for the same amount and
- 12 not greater than \$100 and the total amount paid to all winners of any individual sports pool does not exceed the
- 13 value of \$2,500. The total amount paid to all winners of any individual sports tab game may not exceed the value
- 14 of \$2,500.
- 15 (b) Chances for a series of events may be purchased all at once prior to the occurrence of the first event.
- 16 (3) (a) Except as provided in ~~subsection~~ subsections (3)(b) and (3)(c), the winners of any sports pool
- 17 must receive a 100% payout of the value of the sports pool. The winner of a sports tab game must receive at least
- 18 90% of the total cost of the 100 sports tabs. The operator of the sports tab game may retain the remaining money
- 19 for administration and other expenses.
- 20 (b) A nonprofit organization, licensed as a gambling operator, that maintains records and opens the
- 21 records to inspection upon reasonable demand to verify that the retained portion is used to support charitable
- 22 activities, scholarships or educational grants, or community service projects may retain up to 50% of the value
- 23 of a sports pool or a sports tab game.
- 24 (c) A licensed gambling operator may conduct a sports pool or sports tab game to support a named
- 25 nonprofit organization and may donate up to 50% of the value of the sports pool or sports tab game to the
- 26 nonprofit organization.
- 27 (4) A ~~person or nonprofit organization~~ licensed gambling operator conducting a sports pool or a sports
- 28 tab game may purchase chances or sports tabs to participate in the sports pool or sports tab game but may not:
- 29 (a) retain any portion of the amount wagered in the sports pool or sports tab game, except as provided
- 30 in subsection (3)(b);

- 1 (b) charge a fee for participating in the sports pool or sports tab game; or
- 2 (c) use the sports pool or sports tab game in any manner to establish odds or handicaps or to allow
- 3 betting or booking ~~against the person or nonprofit organization conducting the pool or game.~~"

4

5 **NEW SECTION. Section 8. Codification instruction.** [Section 1] is intended to be codified as an

6 integral part of Title 23, chapter 5, part 4, and the provisions of Title 23, chapter 5, part 4, apply to [section 1].

7 - END -