

## SENATE BILL NO. 551

INTRODUCED BY F. MANDEVILLE, W. GALT, K. BOGNER, M. REGIER, C. SCHOMER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING GAMBLING LAWS TO PROVIDE FOR FANTASY SPORTS CONTESTS; PROVIDING DEFINITIONS; PROVIDING FOR INTERNET FANTASY SPORTS CONTESTS; PROVIDING POWERS TO THE DEPARTMENT OF JUSTICE TO REGULATE INTERNET FANTASY SPORTS CONTESTS; PROVIDING FOR REQUIREMENTS FOR A LICENSE APPLICANT TO CONDUCT INTERNET FANTASY SPORTS CONTESTS; PROVIDING FOR FEES; PROVIDING FOR TAXES ON INTERNET FANTASY SPORTS CONTESTS; PROVIDING FOR LICENSEE RECORDS REPORTS AND RECORDS RETENTION; PROVIDING FOR AUDITS OF LICENSEES; PROVIDING PENALTIES; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 23-4-101, 23-5-112, 23-5-113, 23-5-115, AND 23-7-102, MCA."

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

**NEW SECTION. Section 1. Definitions.** As used in [sections 1 through 10], unless the context otherwise requires, the following terms apply:

(1) "Applicant" means an internet fantasy sports contest service provider that is applying for a license to conduct internet fantasy sports contests under [sections 1 through 10].

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

(3) "Fantasy sports contest" means a fantasy or simulated game or contest composed of no fewer than two individuals who are fantasy sports contest players and in which:

(a) the fantasy sports contest operator is not a player in the game or contest;

(b) the value of all prizes and awards offered to winning players is established and made known to the players in advance of the contest;

(c) all winning outcomes reflect the relative knowledge and skill of the players and are determined by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events; and

(d) no winning outcome is solely based on the score, point spread, or one or more performances of a single real-world team or solely on a single performance of an individual athlete or real-world player in a single real-world event.

(4) "Internet fantasy sports contest" means a method of entering a fantasy sports contest by which a person may establish an account with an internet fantasy sports contest service provider, deposit money into the account, and use the account balance for entering a fantasy sports contest by utilizing electronic communication.

(5) "Internet fantasy sports contest adjusted revenues" means, for each internet fantasy sports contest, the amount equal to the total charges and fees collected from all players entering the internet fantasy sports contest less winnings paid to players in the contest, multiplied by the location percentage.

(6) "Internet fantasy sports contest player" means an individual who is at least 18 years of age and participates in an internet fantasy sports contest operated by an internet fantasy sports contest service provider.

(7) "Internet fantasy sports contest service provider" means a person, including a licensee under [sections 1 through 10], who conducts an internet fantasy sports contest as authorized by [sections 1 through 10].

(8) "Licensee" means a person licensed under [section 5] to conduct internet fantasy sports contests.

(9) "Location percentage" means, for each internet fantasy sports contest, the percentage, rounded to the nearest tenth of a percent, equal to the total charges and fees collected from all internet fantasy sports contest players located in this state divided by the total charges and fees collected from all players in the internet fantasy sports contest.

**NEW SECTION. Section 2. Internet fantasy sports contest allowed.** The system of entering an internet fantasy sports contest as provided in [sections 1 through 10] is legal when conducted by a licensed internet fantasy sports contest service provider as provided in [sections 1 through 10].

**NEW SECTION. Section 3. Department powers -- rulemaking.** (1) The department has jurisdiction over and shall supervise internet fantasy sports contests and internet fantasy sports contest service providers

1 as provided by [sections 1 through 10].

2 (2) The department has the following powers and shall adopt rules pursuant to this chapter to  
3 administer and implement [sections 1 through 10]:

4 (a) to review and investigate applicants and determine the eligibility of applicants for a license to  
5 conduct internet fantasy sports contests pursuant to rules adopted by the department;

6 (b) to license and regulate internet fantasy sports contest service providers subject to the  
7 requirements of [sections 1 through 10];

8 (c) to provide for the prevention of practices detrimental to the public and to provide for the best  
9 interests of internet fantasy sports contests;

10 (d) to investigate alleged violations of [sections 1 through 10] or the department rules, orders, or  
11 final decisions and to take appropriate disciplinary action against a licensee or institute appropriate legal action  
12 for enforcement, or both. Information gathered during an investigation is confidential while the investigation is  
13 pending.

14 (e) to assess fines and revoke or suspend licenses and to impose penalties for violations of  
15 [sections 1 through 10]; and

16 (f) to take any other action as may be reasonable or appropriate to enforce [sections 1 through 10]  
17 and the department rules.

18

19 **NEW SECTION. Section 4. Requirements of applicant -- fee.** (1) An applicant for a license to  
20 conduct internet fantasy sports contests shall complete and sign an application on the form prescribed and  
21 published by the department. The application must include information of the applicant that the department  
22 deems necessary for the purposes of issuing a license pursuant to [sections 1 through 10].

23 (2) An applicant shall submit fingerprints and information that the department deems necessary to  
24 the department and the division of criminal investigation in the manner prescribed on the application forms. The  
25 fingerprints may be submitted to the federal bureau of investigation by the department or the division of criminal  
26 investigation for the purpose of a national criminal background check. The results of a criminal background  
27 check conducted pursuant to this subsection must be considered a confidential record.

28 (3) Before a license is granted, the department or division of criminal investigation shall conduct a

1 thorough background investigation of the applicant for a license to conduct internet fantasy sports contests. The  
2 applicant shall provide information on a form as required by the department or division of criminal investigation.

3 (4) The department shall charge the applicant a reasonable fee set by the attorney general  
4 commensurate with the funds needed to defray the costs associated with the fingerprint and national criminal  
5 background check requirements of subsection (2) and background investigations conducted by the department  
6 or division of criminal investigation as provided in subsection (3). The fee is in addition to any other license fees  
7 and costs charged by the department. The fees and costs received by the department must be deposited in the  
8 general fund.

9 (5) The department may not grant a license to an applicant if there is substantial evidence that any  
10 of the following applies:

11 (a) a license issued to the applicant to conduct internet fantasy sports contests in another  
12 jurisdiction has been revoked, or a request for a license to conduct internet fantasy sports contests in another  
13 jurisdiction has been denied, by an entity licensing persons to conduct the contests in that jurisdiction;

14 (b) the applicant has not demonstrated financial responsibility sufficient to adequately meet the  
15 requirements of the enterprise proposed;

16 (c) the applicant has not adequately disclosed the true owners of the enterprise proposed;

17 (d) the applicant has knowingly made a false statement of a material fact to the department;

18 (e) the applicant has failed to meet a monetary obligation in connection with conducting an internet  
19 fantasy sports contest;

20 (f) the applicant is not of good repute and moral character, or the applicant has pled guilty to, or  
21 has been convicted of, a felony; or

22 (g) a member of the board of directors of the applicant is not 18 years of age or older.

23 (6) A person who knowingly makes a false statement on the application is guilty of an aggravated  
24 misdemeanor.

25 (7) For the purposes of this section, "applicant" includes each member of the board of directors of  
26 an internet fantasy sports contest service provider.

27  
28 **NEW SECTION. Section 5. Internet fantasy sports contest fees -- license.** (1) If the department is

1 satisfied that the requirements of [sections 1 through 10] and its rules adopted under [sections 1 through 10]  
2 applicable to licensees have been or will be complied with, the department shall, upon payment of an initial  
3 license fee of \$5,000, issue a license for a period of not more than 3 years to an applicant to conduct internet  
4 fantasy sports contests in this state.

5 (2) A licensed internet fantasy sports contest service provider shall use reasonable methods to  
6 comply with all of the following requirements:

7 (a) prevent employees of the internet fantasy sports contest service provider and relatives living in  
8 the same household of the employees from competing in an internet fantasy sports contest on the service  
9 provider's digital platform in which the service provider offers a cash prize to the public;

10 (b) verify that an internet fantasy sports contest player located in the state is 18 years of age or  
11 older;

12 (c) ensure that coaches, officials, players, contestants, or other individuals who participate in a  
13 real-world game or contest that is the subject of an internet fantasy sports contest are restricted from entering  
14 an internet fantasy sports contest in which the outcome is determined, in whole or in part, by the accumulated  
15 statistical results of a team of individuals in the game or contest in which they participate;

16 (d) include on the internet site or mobile application used by the licensee to conduct internet  
17 fantasy sports contests the statewide telephone number authorized by the department of public health and  
18 human services to provide problem gambling information and extensive responsible gaming features;

19 (e) allow individuals to establish an account with an internet fantasy sports contest service provider  
20 by utilizing electronic communication;

21 (f) disclose the number of entries a single internet fantasy sports contest player may submit to  
22 each internet fantasy sports contest and take reasonable steps to prevent players from submitting more than  
23 the allowable number of entries for that internet fantasy sports contest;

24 (g) aggregate internet fantasy sports contest player funds from operational funds or maintain a  
25 reserve in the form of cash, cash equivalents, an irrevocable letter of credit, payment processor reserves and  
26 receivables, a bond, or a combination of these in the amount of the deposits in internet fantasy sports contest  
27 player accounts for the benefit and protection of internet fantasy sports contest player funds held in internet  
28 fantasy sports contest accounts by the internet fantasy sports contest service provider;

- 1 (h) conduct an annual audit as provided in [section 9];
- 2 (i) pay the tax as provided in [section 6]; and
- 3 (j) prohibit players in an internet fantasy sports contest from making any payments by credit card.
- 4 (3) (a) After the initial 3-year license period, the annual renewal license fee to conduct internet
- 5 fantasy sports contests is \$1,000.
- 6 (b) For a licensed internet fantasy sports contest service provider with total annual internet fantasy
- 7 sports contest adjusted revenues of \$150,000 or more for the year prior to the annual license fee renewal date,
- 8 the annual license renewal fee is \$5,000.
- 9 (c) Money collected by the department from the license fees paid pursuant to this section must be
- 10 deposited into the general fund.
- 11 (4) (a) A licensed internet fantasy sports contest service provider shall pay a regulatory fee to the
- 12 department. The regulatory fee must be established by the department based on the costs of administering and
- 13 enforcing [sections 1 through 10].
- 14 (b) A licensed internet fantasy sports contest service provider must receive a credit for the amount
- 15 of the regulatory fee paid by the provider against the taxes to be paid pursuant to [section 6].
- 16 (c) The portion of the fee paid pursuant to this section relating to the costs of the department must
- 17 be deposited into the general fund.
- 18 (5) If a licensee violates any of the conditions listed in [section 4] or this section, the department
- 19 shall immediately suspend the license.

20

21 **NEW SECTION. Section 6. Internet fantasy sports contest tax -- rate -- allocation.** (1) A tax is

22 imposed on internet fantasy sports contest adjusted revenues received each fiscal year by an internet fantasy

23 sports contest service provider from internet fantasy sports contests authorized under [sections 1 through 10] at

24 the rate of 6.75%.

25 (2) The taxes imposed by this section for internet fantasy sports contests authorized under

26 [sections 1 through 10] must be paid by the internet fantasy sports contest service provider to the department

27 and must be deposited into the general fund.

28

1           **NEW SECTION. Section 7. Internet fantasy sports contests -- age restriction.** A person under 18  
2 years of age may not enter an internet fantasy sports contest. A person who violates this section with respect to  
3 entering an internet fantasy sports contest commits a criminal offense under 23-5-161.

4  
5           **NEW SECTION. Section 8. Licensees -- records -- reports -- confidentiality.** (1) An internet  
6 fantasy sports contest service provider shall keep its books and records in a way that clearly shows the internet  
7 fantasy sports contest adjusted revenues for each internet fantasy sports contest subject to tax in the state.

8           (2)     (a) The licensee shall furnish to the department any reports and information required by the  
9 department with respect to the licensee's activities.

10           (b)     (i) A licensee shall promptly report to the department:

11           (A)     any criminal or disciplinary proceedings commenced against the licensee or its employees in  
12 connection with the licensee conducting an internet fantasy sports contest;

13           (B)     any abnormal contest activity or patterns that may indicate a concern about the integrity of an  
14 internet fantasy sports contest; and

15           (C)     any other conduct with the potential to corrupt an outcome of an internet fantasy sports contest  
16 for the purposes of financial gain, including but not limited to match fixing and suspicious or illegal internet  
17 fantasy sports contest activities, such as the use of funds derived from illegal activity, deposits of money to  
18 enter an internet fantasy sports contest to conceal or launder funds derived from illegal activity, the use of  
19 agents to enter an internet fantasy sports contest, or the use of false identification.

20           (ii)     The department shall share any information received pursuant to this section with the division  
21 of criminal investigation, any other law enforcement entity on request, or any regulatory agency the department  
22 deems appropriate.

23           (iii)    The department shall promptly report any information received pursuant to this section with any  
24 sports team or sports governing body as the department deems appropriate but may not share any information  
25 that would interfere with an ongoing criminal investigation.

26           (3)     (a) Except as provided in subsection (3)(b), the books and records kept by a licensee as  
27 provided by this section are public records and the examination, publication, and dissemination of the books  
28 and records are governed by the provisions of [sections 1 through 10].

(b) The records of the department are governed by the provisions of Title 2, chapter 6, part 10, provided that, in addition to records that may be kept confidential as trade secrets, the following records provided by a licensee to the department are kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:

- (i) patron and customer records;
- (ii) security reports and network audits;
- (iii) internal control and compliance records;
- (iv) employee records;
- (v) marketing expenses;
- (vi) supplemental schedules to the certified audit, except for those books and records as described in subsection (1), that are obtained by the department in connection with the annual audit provided for in [section 9];
- (vii) any information specifically requested for inspection by the department or a representative of the department; and
- (viii) any other records provided by a licensee to the department that the department deems confidential in accordance with all applicable state laws and administrative rules.

**NEW SECTION. Section 9. Annual audit of licensee operations.** Within 180 days after the end of the licensee's fiscal year, the licensee shall transmit to the department an audit of the licensee's total internet fantasy sports contest operations, including an itemization of all expenses and subsidies. Each audit must be conducted by an accountant licensed under Title 37 who is selected by the licensee and approved by the department.

**NEW SECTION. Section 10. Civil penalty.** A person who willfully fails to comply with the requirements of [sections 1 through 10] and the rules adopted pursuant to this chapter is liable for a civil penalty of not more than \$1,000 for each violation, not to exceed \$10,000 for violations arising out of the same transaction or occurrence, which must accrue to the state and may be recovered in a civil action.



1           **Section 11.** Section 23-4-101, MCA, is amended to read:

2           **"23-4-101. Definitions.** Unless the context requires otherwise, in this chapter the following definitions  
3    apply:

4           (1)       "Advance deposit wagering" means a form of parimutuel wagering in which a person deposits  
5    money in an account with an advance deposit wagering hub operator licensed by the board to conduct advance  
6    deposit wagering. The money is used to pay for parimutuel wagers made in person, by telephone, or through a  
7    communication by other electronic means on horse or greyhound races held in or outside this state.

8           (2)       "Advance deposit wagering hub operator" means a simulcast and interactive wagering hub  
9    business licensed by the board that, through a subscriber-based service located in this or another state,  
10   conducts parimutuel wagering on the races that it simulcasts and on other races that it carries in its wagering  
11   menu and that uses a computer that registers bets and divides the total amount bet among those who won.

12          (3)       "Board" means the board of horseracing provided for in 2-15-1809.

13          (4)       "Board of stewards" means a board composed of three stewards who supervise race meets.

14          (5)       "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

15          (6)       "Fantasy sports league" has the meaning provided in 23-5-801, except that the provisions of  
16   [sections 1 through 10] do not apply.

17          (7)       "Immediate family" means the spouse, parents, children, grandchildren, brothers, or sisters of  
18   an official or licensee regulated by this chapter who have a permanent or continuous residence in the  
19   household of the official or licensee and all other persons who have a permanent or continuous residence in the  
20   household of the official or licensee.

21          (8)       "Match bronc ride" means a saddle bronc riding contest consisting of two sections known as a  
22   "long go" and a "short go" in which the win, place, and show winners are determined by judges of the rides for  
23   each go.

24          (9)       "Minor" means a person under 18 years of age.

25          (10)       "Montana wager" means a parimutuel wager that is placed at a race track in Montana or on a  
26   race being conducted in Montana or any parimutuel wager placed by a Montana resident on a race conducted  
27   outside of Montana.

28          (11)       "Parimutuel facility" means a facility licensed by the board at which fantasy sports leagues as

1 provided for in Title 23, chapter 5, part 8, are conducted and wagering on the outcome under a parimutuel  
2 system is permitted.

3 (12) "Parimutuel network" means an association licensed by the board to compile and distribute  
4 fantasy sports league rosters as provided for in Title 23, chapter 5, part 8, and weekly point totals for licensed  
5 parimutuel facilities and to manage statewide parimutuel wagering pools on fantasy sports leagues.

6 (13) "Persons" means individuals, firms, corporations, fair boards, and associations.

7 (14) (a) "Race meet" means racing of registered horses or mules, match bronc rides, and wild horse  
8 rides at which the parimutuel system of wagering is used. The term includes horseraces, mule races, and  
9 greyhound races that are simulcast.

10 (b) The term does not include live greyhound racing.

11 (15) "Racing" means live racing of registered horses or mules and simulcast racing of horses,  
12 mules, and greyhounds.

13 (16) "Simulcast" means a live broadcast of an actual horserace, mule race, or greyhound race at the  
14 time it is run. The term includes races of local or national prominence.

15 (17) "Simulcast facility" means a facility at which horseraces, mule races, or greyhound races are  
16 simulcast and wagering on the outcome is permitted under the parimutuel system.

17 (18) "Simulcast parimutuel network" means an association that has contracted with the board to  
18 receive or originate intrastate and interstate simulcast race signals, relay the race signals to licensed simulcast  
19 facilities, and manage statewide parimutuel wagering pools on simulcast races or has been licensed by the  
20 board to operate a statewide parimutuel wagering pool for fantasy sports leagues. The board may act as a  
21 simulcast parimutuel network provider with respect to simulcast races.

22 (19) "Source market fee" means the portion of a wager made with a licensed advance deposit  
23 wagering hub operator by a Montana resident that is paid to the board.

24 (20) "Steward" means an official hired by the department and by persons sponsoring a race meet to  
25 regulate and control the day-to-day conduct and operation of a sanctioned meet.

26 (21) "Wild horse ride" means a wild horse riding contest in which three-person teams attempt to  
27 saddle a wild horse and ride it completely around a track with the first to do so declared the winner."  
28

1           **Section 12.** Section 23-5-112, MCA, is amended to read:

2           **"23-5-112. Definitions.** Unless the context requires otherwise, the following definitions apply to parts  
3 1 through 8 of this chapter:

4           (1)     "Antique gambling device" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (b) operated by a senior citizen center.

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

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

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

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

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

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

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

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

17 (i) promotional games of chance;

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

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

21 (iv) patron dice games as defined in this section; or

22 (v) online sports wagering regulated under [sections 1 through 10]; and

23 (vi) fantasy sports contests as defined in [section 1].

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

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

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

3           (b)    The term does not mean:

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

6           (ii)    a promotional game of chance;

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

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

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

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

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

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

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

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

28          (b)     an apparatus, implement, or device, by whatever name known, specifically designed to be

1 used in conducting an illegal gambling enterprise, including a faro box, faro layout, roulette wheel, roulette  
2 table, craps table, or slot machine, except as provided in 23-5-153.

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

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

8 (b) dice games known as craps, hazard, or chuck-a-luck, but not including patron dice games or  
9 activities authorized by 23-5-160;

10 (c) credit gambling; and

11 (d) internet gambling.

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

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

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

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

28 (26) "License" means a license for an operator, dealer, card room contractor, manufacturer of

1 devices not legal in Montana, sports tab game seller, manufacturer of electronic live bingo or keno equipment,  
2 other manufacturer, distributor, or route operator that is issued to a person by the department.

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

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

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

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

11 (30) "Manufacturer" means a person who:

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

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

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

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

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

26 (33) "Ownership" or "ownership interest" means the ability to:

27 (a) share in the profits, losses, or liabilities of a gambling operation;

28 (b) enjoy the privileges reserved to licensees; or

1 (c) control a gambling operation.

2 (34) (a) "Patron dice games" means dice games involving wagers played by two or more patrons  
3 over 18 years of age on the premises of a licensed gambling operator that the licensee does not promote and in  
4 which the licensee does not participate or acquire a financial interest either as the bank of the game or as the  
5 source of credit for players.

6 (b) The term does not include:

7 (i) an illegal gambling enterprise as defined in this section; or

8 (ii) activities authorized by 23-5-160.

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

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

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

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

22 (39) "Public gambling" means gambling conducted in:

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

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

28 (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.

(40) "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.

(41) "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 and may sell gambling equipment to a distributor or manufacturer.

(42) "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.

(43) (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.

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

**Section 13.** Section 23-5-113, MCA, is amended to read:

**"23-5-113. Department as criminal justice agency.** The department is a criminal justice agency whose designated agents are granted peace officer status, with the power of search, seizure, and arrest.

1 Agents are authorized to investigate gambling activities in this state regulated by parts 1 through 8 and  
2 [sections 1 through 10] of this chapter and the rules of the department, to report violations to the county  
3 attorney of the county in which they occur, to investigate and report on activities related to liquor and tobacco  
4 administration under Title 16, and to act as appointed by the attorney general."

5  
6 **Section 14.** Section 23-5-115, MCA, is amended to read:

7 **"23-5-115. Powers and duties of department -- licensing.** (1) The department shall administer the  
8 provisions of parts 1 through 8 and [sections 1 through 10] of this chapter.

9 (2) The department shall adopt rules to administer and implement parts 1 through 8 and [sections  
10 1 through 10] of this chapter.

11 (3) The department shall provide licensing procedures, prescribe necessary application forms, and  
12 grant or deny license applications and may provide for the issuance of temporary operating authority.

13 (4) The department shall, as a prerequisite to the issuance of a license pursuant to the authority  
14 contained in this chapter, require the applicant to submit fingerprints for the purpose of a criminal background  
15 investigation by the department and the federal bureau of investigation.

16 (5) The applicant shall sign a release of information to the department and is responsible to the  
17 department for the payment of all fees associated with the criminal background check.

18 (6) The department shall prescribe recordkeeping requirements for licensees, provide a procedure  
19 for inspection of records, provide a method for collection of taxes, and establish penalties for the delinquent  
20 reporting and payment of required taxes.

21 (7) The department may suspend, revoke, deny, or place a condition on a license issued under  
22 parts 1 through 8 and [sections 1 through 10] of this chapter.

23 (8) The department may not make public or otherwise disclose confidential criminal justice  
24 information, as defined in 44-5-103, information obtained in the tax reporting processes, personal information  
25 protected by an individual privacy interest, or trade secrets, as defined in 30-14-402, specifically identified and  
26 for which there are reasonable grounds of privilege asserted by the party claiming the privilege.

27 (9) The department shall assess, collect, and disburse any fees, taxes, or charges authorized  
28 under parts 1 through 8 and [sections 1 through 10] of this chapter."

1

2           **Section 15.** Section 23-7-102, MCA, is amended to read:

3           **"23-7-102. Purpose.** (1) The purpose of this chapter is to allow lottery games and sports wagering in  
4       which the player purchases from the state, through the administrators of the state lottery and sports wagering  
5       agency, a chance to win a prize. The state lottery and sports wagering agency may provide products sold only  
6       through an authorized device at a sales agent location licensed by the director.

7           (2)       The administration and construction of this chapter must comply with Article III, section 9, of the  
8       Montana constitution, which mandates that all forms of gambling are prohibited unless authorized by acts of the  
9       legislature or by the people through initiative or referendum. Therefore, this chapter must be strictly construed  
10      to allow only those games that are within the scope of this section and within the definition of "lottery game" or  
11      "sports wagering".

12          (3)       The state lottery may not:

13          (a)       operate a slot machine or carry on any form of gambling prohibited by the laws of this state; or

14          (b)       carry on any form of gambling permitted by the laws of this state except for a lottery game or  
15      sports wagering within the scope of this section and within the definition of "lottery game" or "sports wagering"

16          (4)       This chapter does not apply to Montana online sports wagering as provided for [sections 1  
17      through 10]."

18

19           **NEW SECTION. Section 16. Codification instruction.** [Sections 1 through 10] are intended to be  
20      codified as a new part in Title 23, chapter 5, and the provisions of Title 23, chapter 5, apply to [sections 1  
21      through 10].

22

- END -