

TITLE 2 GOVERNMENT STRUCTURE AND ADMINISTRATION

CHAPTER 15 EXECUTIVE BRANCH OFFICERS AND AGENCIES

PART 20 DEPARTMENT OF JUSTICE

2-15-2021. Gaming advisory council -- allocation -- composition -- compensation -- biennial report.

(1) There is a gaming advisory council.

(2) The gaming advisory council is allocated to the department for administrative purposes only as prescribed in [2-15-121](#).

(3) The gaming advisory council consists of nine members. One member must be from the senate, and one member must be from the house of representatives. The senate committee on committees and the speaker of the house of representatives shall appoint the legislative members of the council. The seven remaining members must be appointed by the department, with one representing the public at large, two representing local governments, one being a Native American, and three representing the gaming industry.

(4) Each gaming advisory council member is appointed to a 3-year term of office. A member of the council may be removed for good cause by the appointing body provided for in subsection (3).

(5) The gaming advisory council shall appoint a presiding officer from its members.

(6) Members of the gaming advisory council are entitled to travel, meals, and lodging expenses as provided for in [2-18-501](#) through [2-18-503](#). A member who is not a full-time salaried officer or employee of the state or of a political subdivision of the state is also entitled to be paid \$25 for each day during which the member is actually and necessarily engaged in the performance of council duties. Expenses of the council must be paid from licensing fees received by the department.

(7) The gaming advisory council shall, within its authorized budget, hold meetings and incur expenses as it considers necessary to study all aspects of gambling in the state.

(8) (a) The gaming advisory council shall submit a biennial report to the department, at a time designated by the department, with recommendations for amendments to the gambling statutes, the need for additional or modified department rules, the clarification of existing rules, and other recommendations on the operation of the department or any other gambling-related matter.

(b) The biennial report required under subsection (8)(a) must be affixed to the report on gambling in the state that the department submits that year.

(c) The council may submit interim reports to the department as the council considers necessary.

(d) The council shall meet with the department upon request of the department.

(e) The department shall meet with the council upon request of the council.

(9) The department shall give each council member notice and a copy of each proposed change in administrative rules relating to gambling. The notice and copy must be given at the time a notice of proposed rules changes is filed with the secretary of state. The council shall review the proposal, may comment on it, and may attend any hearing on the proposal. The department shall consider any comment by any council member or by the council as a whole prior to adopting the proposed change.

History

History: En. Sec. 64, Ch. 642, L. 1989; amd. Sec. 9, Ch. 112, L. 1991; amd. Sec. 53, Ch. 647, L. 1991; amd. Sec. 7, Ch. 349, L. 1993; amd. Sec. 1, Ch. 626, L. 1993.

TITLE 7 LOCAL GOVERNMENT

CHAPTER 1 GENERAL PROVISIONS

PART 1 NATURE OF SELF-GOVERNMENT LOCAL GOVERNMENTS

7-1-112. Powers requiring delegation.

A local government with self-government powers is prohibited the exercise of the following powers unless the power is specifically delegated by law:

- (1) the power to authorize a tax on income or the sale of goods or services, except that this section shall not be construed to limit the authority of a local government to levy any other tax or establish the rate of any other tax;
- (2) the power to regulate private activity beyond its geographic limits;
- (3) the power to impose a duty on another unit of local government, except that nothing in this limitation shall affect the right of a self-government unit to enter into and enforce an agreement on interlocal cooperation;
- (4) the power to exercise any judicial function, except as an incident to the exercise of an independent self-government administrative power;
- (5) the power to regulate any form of gambling, lotteries, or gift enterprises.

History

History: En. 47A-7-202 by Sec. 1, Ch. 345, L. 1975; R.C.M. 1947, 47A-7-202.

TITLE 16 ALCOHOL AND TOBACCO

CHAPTER 4 LICENSE ADMINISTRATION

PART 1 BEER AND WINE LICENSES

16-4-105 Limit on retail beer licenses -- wine license amendments -- limitation on use of license -- exceptions.

- (1) Except as otherwise provided by law, a license to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person, firm, or corporation that is approved by the department as a person, firm, or corporation qualified to sell beer, except that:
 - (a) the number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of the cities and towns must be determined on the basis of population prescribed in [16-4-502](#) as follows:
 - (i) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of the towns, not more than one retail beer license;
 - (ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities or towns, one retail beer license for every 500 inhabitants;
 - (iii) in incorporated cities of over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities, four retail beer licenses for the first 2,000 inhabitants, two additional retail beer licenses for the next 2,000 inhabitants or major fraction of 2,000 inhabitants, and one additional retail beer license for every additional 2,000 inhabitants;
 - (b) the number of the inhabitants in incorporated cities and incorporated towns, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits of the cities or towns, governs the number of retail beer licenses that may be issued for use within the cities and towns and within a distance of 5 miles from the corporate limits of the cities and towns. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail beer licenses that may be issued for use in both the incorporated municipalities and within a distance of 5 miles from their respective corporate limits must be determined on the basis of the combined populations of both municipalities and may not exceed the limitations in this section. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a

straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town.

(c) retail beer licenses of issue on March 7, 1947, and retail beer licenses issued under [16-4-110](#) that are in excess of the limitations in this section are renewable, but new licenses may not be issued in violation of the limitations;

(d) the limitations do not prevent the issuance of a nontransferable and nonassignable retail beer license to an enlisted persons', noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949;

(e) the number of retail beer licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits or for use at premises situated within any unincorporated area must be determined by the department in its discretion, except that a retail beer license may not be issued for any premises so situated unless the department determines that the issuance of the license is required by public convenience and necessity pursuant to [16-4-203](#). Subsection (3) does not apply to licenses issued under this subsection (1)(e). The owner of the license whose premises are situated outside of an incorporated city or town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(2) A person holding a license to sell beer for consumption on the premises at retail may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The division may issue an amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared-food business. Except for beer and wine licenses issued pursuant to [16-4-420](#), a person holding a beer and wine license may sell wine for consumption on or off the premises. Nonretention of the beer license, for whatever reason, means automatic loss of the wine amendment license.

(3) (a) Except as provided in subsections (1)(e) and (3)(b), a license issued pursuant to this section after October 1, 1997, must have a conspicuous notice that the license may not be used for premises where gambling is conducted.

(b) Subsection (3)(a) does not apply to licenses issued under this section if the department received the application before October 1, 1997. For the purposes of this subsection (3)(b), the application is received by the department before October 1, 1997, if the application's mail cover is postmarked by the United States postal service before October 1, 1997, or if the application was consigned to a private courier service for delivery to the department before October 1, 1997. An applicant who consigns an application to a private courier shall provide to the department, upon demand, documentary evidence satisfactory to the department that the application was consigned to a private courier before October 1, 1997.

History

History: En. Sec. 14, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.36, R.C.M. 1935; amd. Sec. 1, Ch. 225, L. 1947; amd. Sec. 1, Ch. 165, L. 1949; amd. Sec. 1, Ch. 55, L. 1955; amd. Sec. 1, Ch. 205, L. 1959; amd. Sec. 1, Ch. 271, L. 1965; amd. Sec. 1, Ch. 31, L. 1974; Sec. 4-333, R.C.M. 1947; amd. and redes. 4-4-201 by Sec. 66, Ch. 387, L. 1975; amd. Sec. 5, Ch. 496, L. 1977; R.C.M. 1947, 4-4-201(1), (3), (4); amd. Sec. 12, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 1, Ch. 25, L. 1981; amd. Sec. 1, Ch. 86, L. 1981; amd. Sec. 2, Ch. 519, L. 1981; amd. Sec. 1, Ch. 50, L. 1983; amd. Sec. 2, Ch. 595, L. 1983; amd. Sec. 3, Ch. 731, L. 1985; amd. Sec. 2, Ch. 228, L. 1995; amd. Sec. 35, Ch. 530, L. 1995; amd. Sec. 6, Ch. 465, L. 1997; amd. Sec. 1, Ch. 528, L. 1997.

PART 3 SPECIAL LICENSES

16-4-304 Seasonal beer and wine license for Yellowstone airport.

(1) Upon application, the department of revenue shall issue a retail beer and wine license to the Yellowstone airport, which is an airport near West Yellowstone, Montana, owned by the state of Montana and operated by the department of transportation.

(2) The application must be made by the department of transportation. The department of transportation may lease the license of use at the airport to an individual or entity approved by the department of revenue.

(3) The license is valid for the retail sale of beer and wine from June 1 to October 1 of each year.

(4) There is no annual fee for the license.

(5) The license issued pursuant to this section:

(a) is not subject to the quota provisions of [16-4-105](#);

- (b) is nontransferable;
- (c) does not permit gambling activities otherwise allowed under Title 23, part 5.

History

History: En. Sec. 1, Ch. 529, L. 1993.

PART 4 LICENSING CRITERIA

16-4-105. Limit on retail beer licenses -- wine license amendments -- limitation on use of license -- exceptions.

(1) Except as otherwise provided by law, a license to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person, firm, or corporation that is approved by the department as a person, firm, or corporation qualified to sell beer, except that:

(a) the number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of the cities and towns must be determined on the basis of population prescribed in [16-4-502](#) as follows:

(i) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of the towns, not more than one retail beer license;

(ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities or towns, one retail beer license for every 500 inhabitants;

(iii) in incorporated cities of over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities, four retail beer licenses for the first 2,000 inhabitants, two additional retail beer licenses for the next 2,000 inhabitants or major fraction of 2,000 inhabitants, and one additional retail beer license for every additional 2,000 inhabitants;

b) the number of the inhabitants in incorporated cities and incorporated towns, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits of the cities or towns, governs the number of retail beer licenses that may be issued for use within the cities and towns and within a distance of 5 miles from the corporate limits of the cities and towns. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail beer licenses that may be issued for use in both the incorporated municipalities and within a distance of 5 miles from their respective corporate limits must be determined on the basis of the combined populations of both municipalities and may not exceed the limitations in this section. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town.

(c) retail beer licenses of issue on March 7, 1947, and retail beer licenses issued under [16-4-110](#) that are in excess of the limitations in this section are renewable, but new licenses may not be issued in violation of the limitations;

(d) the limitations do not prevent the issuance of a nontransferable and nonassignable retail beer license to an enlisted persons', noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949;

(e) the number of retail beer licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits or for use at premises situated within any unincorporated area must be determined by the department in its discretion, except that a retail beer license may not be issued for any premises so situated unless the department determines that the issuance of the license is required by public convenience and necessity pursuant to [16-4-203](#). Subsection (3) does not apply to licenses issued under this subsection (1)(e). The owner of the license whose premises are situated outside of an incorporated city or town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(2) A person holding a license to sell beer for consumption on the premises at retail may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The division may issue an amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared-food business. Except for beer and wine licenses issued pursuant to [/cgi-bin/om_isapi.dll?clientID=7937&infobase=MCA_97.NFO&jump=16-4-](#)

[420&softpage=Document - JUMPDEST_16-4-42016-4-420](#), a person holding a beer and wine license may sell wine for consumption on or off the premises. Nonretention of the beer license, for whatever reason, means automatic loss of the wine amendment license.

(3) (a) Except as provided in subsections (1)(e) and (3)(b), a license issued pursuant to this section after October 1, 1997, must have a conspicuous notice that the license may not be used for premises where gambling is conducted.

(b) Subsection (3)(a) does not apply to licenses issued under this section if the department received the application before October 1, 1997. For the purposes of this subsection (3)(b), the application is received by the department before October 1, 1997, if the application's mail cover is postmarked by the United States postal service before October 1, 1997, or if the application was consigned to a private courier service for delivery to the department before October 1, 1997. An applicant who consigns an application to a private courier shall provide to the department, upon demand, documentary evidence satisfactory to the department that the application was consigned to a private courier before October 1, 1997.

History

History: En. Sec. 14, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.36, R.C.M. 1935; amd. Sec. 1, Ch. 225, L. 1947; amd. Sec. 1, Ch. 165, L. 1949; amd. Sec. 1, Ch. 55, L. 1955; amd. Sec. 1, Ch. 205, L. 1959; amd. Sec. 1, Ch. 271, L. 1965; amd. Sec. 1, Ch. 31, L. 1974; Sec. 4-333, R.C.M. 1947; amd. and redes. 4-4-201 by Sec. 66, Ch. 387, L. 1975; amd. Sec. 5, Ch. 496, L. 1977; R.C.M. 1947, 4-4-201(1), (3), (4); amd. Sec. 12, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 1, Ch. 25, L. 1981; amd. Sec. 1, Ch. 86, L. 1981; amd. Sec. 2, Ch. 519, L. 1981; amd. Sec. 1, Ch. 50, L. 1983; amd. Sec. 2, Ch. 595, L. 1983; amd. Sec. 3, Ch. 731, L. 1985; amd. Sec. 2, Ch. 228, L. 1995; amd. Sec. 35, Ch. 530, L. 1995; amd. Sec. 6, Ch. 465, L. 1997; amd. Sec. 1, Ch. 528, L. 1997.

TITLE 19 PUBLIC RETIREMENT SYSTEMS

CHAPTER 7 SHERIFFS' RETIREMENT

PART 1 GENERAL PROVISIONS

19-7-101 Definitions.

Unless the context requires otherwise, the following definitions apply in this chapter:

(1) "Compensation" means remuneration paid for services to a member out of funds controlled by an employer before any deductions are made and exclusive of maintenance, allowances, and expenses.

(2) "Final average salary" means the average monthly compensation received by a member for any 3 years of continuous service from which contributions were deducted or, in the event that a member has not served 3 years, the total compensation earned divided by the number of months served. Lump-sum payments for sick leave and annual leave paid to an employee upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the final average salary. A lump-sum payment may not be added to a single month's compensation.

(3) "Investigator" means a person who is employed as a criminal investigator or as a gambling investigator for the department of justice.

(4) "Sheriff" means any elected or appointed county sheriff or undersheriff or any appointed, lawfully trained, appropriately salaried, and regularly acting deputy sheriff. The board shall adopt rules incorporating both the peace officers standards and training council's current law enforcement training requirements and the legislatively authorized salary requirements as effective for deputy sheriffs who are eligible for membership in this retirement system.

History

History: Ap. p. Sec. 2, Ch. 178, L. 1974; amd. Sec. 1, Ch. 59, L. 1977; amd. Sec. 17, Ch. 332, L. 1977; Sec. 68-2602, R.C.M. 1947; Ap. p. Sec. 3, Ch. 178, L. 1974; amd. Sec. 4, Ch. 132, L. 1977; Sec. 68-2603, R.C.M. 1947; R.C.M. 1947, 68-2602, 68-2603; amd. Sec. 8, Ch. 114, L. 1979; amd. Sec. 9, Ch. 282, L. 1983; amd. Sec. 1, Ch. 401, L. 1985; amd. Sec. 5, Ch. 45, L. 1987; amd. Sec. 62, Ch. 370, L. 1987; amd. Sec. 9, Ch. 196, L. 1989; amd.

Sec. 2, Ch. 261, L. 1993; amd. Sec. 134, Ch. 265, L. 1993; amd. Sec. 17, Ch. 412, L. 1995.

TITLE 23 PARKS, RECREATION, SPORTS, AND GAMBLING

CHAPTER 5 GAMBLING

PART 1 GENERAL PROVISIONS, PROCEEDINGS, AND PENALTIES

23-5-110 Public policy of state concerning gambling.

(1) The legislature finds that for the purpose of ensuring the proper gambling environment in this state it is necessary and desirable to adopt a public policy regarding public gambling activities in Montana. The legislature therefore declares it is necessary to:

- (a) create and maintain a uniform regulatory climate that assures players, owners, tourists, citizens, and others that the gambling industry in this state is fair and is not influenced by corrupt persons, organizations, or practices;
- (b) protect legal public gambling activities from unscrupulous players and vendors and detrimental influences;
- (c) protect the public from unscrupulous proprietors and operators of gambling establishments, games, and devices;
- (d) protect the state and local governments from those who would conduct illegal gambling activities that deprive those governments of their tax revenues;
- (e) protect the health, safety, and welfare of all citizens of this state, including those who do not gamble, by regulating gambling activities; and
- (f) promote programs necessary to provide assistance to those who are adversely affected by legalized gambling, including compulsive gamblers and their families.

(2) The legislature adopts the policy that an applicant for a license or permit or other department approval under parts 1 through 8 of this chapter does not have a right to the issuance of a license or permit or the granting of the approval sought. The issuance of a license or permit issued or other department approval granted pursuant to the provisions of parts 1 through 8 of this chapter is a privilege revocable only for good cause. A holder does not acquire a vested right in the license or permit issued or other department approval granted. A license or permit issued under parts 1 through 8 of this chapter may not be sold, assigned, leased, or transferred.

(3) Revenue to fund the expense of administration and control of gambling as regulated by parts 1 through 8 of this chapter must be derived solely from fees, taxes, and penalties on gambling activities, except the gambling activities of the Montana state lottery and the parimutuel industry.

History

History: En. Sec. 1, Ch. 642, L. 1989; amd. Sec. 1, Ch. 398, L. 1993.

23-5-111. Construction and application.

In view of Article III, section 9, of the Montana constitution, parts 1 through 8 of this chapter must be strictly construed by the department and the courts to allow only those types of gambling and gambling activity that are specifically and clearly allowed by those parts.

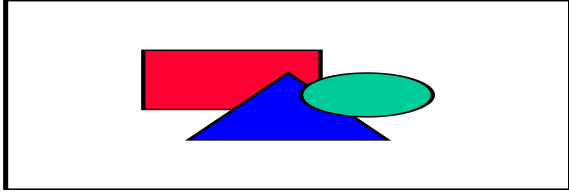
History

History: (1)En. Sec. 65, Ch. 642, L. 1989; (2)En. Sec. 2, Ch. 642, L. 1989; amd. Sec. 2, Ch. 398, L. 1993.

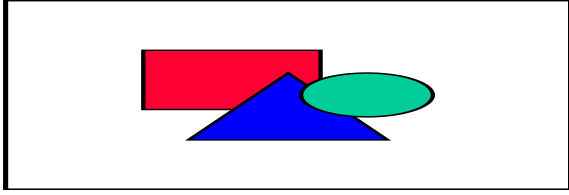
23-5-112. Definitions.

Unless the context requires otherwise, the following definitions apply to parts 1 through 8 of this chapter:

- (1) "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 8 of this chapter.
- (2) "Application" means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.



- (3) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected by the department and that randomly selects the numbers.
- (4) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each letter above one of the columns. More than 75 numbers may not be used. One number must appear in each square, except for the center square, which may be considered a free play. Numbers are randomly drawn using authorized equipment until the game is won by the person or persons who first cover one or more previously designated arrangements of numbers on the bingo card.
- (5) "Bingo caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live bingo.
- (6) "Card game table" or "table" means a live card game table:
- (a) authorized by permit and made available to the public on the premises of a licensed gambling operator; or
 - (b) operated by a senior citizen center.
- (7) "Card game tournament" means a gambling activity for which a permit has been issued involving participants who pay valuable consideration for the opportunity to compete against each other in a series of live card games conducted over a designated period of time.
- (8) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.
- (9) "Department" means the department of justice.
- (10) "Distributor" means a person who:
- (a) purchases or obtains from a licensed manufacturer, distributor, or route operator equipment of any kind for use in gambling activities; and
 - (b) sells the equipment to a licensed distributor, route operator, or operator.
- (11) "Gambling" or "gambling activity" means risking money, credit, deposit, check, property, or any other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling device or gambling enterprise. The term does not mean conducting or participating in a promotional game of chance and does not include amusement games regulated by Title 23, chapter 6, part 1.
- (12) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling activity.
- (13) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme, or agreement to provide gambling or a gambling device to the public.
- (14) "Gift enterprise" means a gambling activity in which persons have qualified to obtain property to be awarded by purchasing or agreeing to purchase goods or services. The term does not mean:
- (a) a cash or merchandise attendance prize or premium that county fair commissioners of agricultural fairs and rodeo associations may give away at public drawings at fairs and rodeos;
 - (b) a promotional game of chance; or
 - (c) an amusement game regulated under chapter 6 of this title.
- (15) "Gross proceeds" means gross revenue received less prizes paid out.
- (16) "Illegal gambling device" means a gambling device not specifically authorized by statute or by the rules of the department. The term includes:
- (a) a ticket or card, by whatever name known, containing concealed numbers or symbols that may match numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push card, tip board, pickle ticket, break-open, or jar game, except for one used under chapter 7 of this title or under part 5 of this chapter or in a promotional game of chance approved by the department; and
 - (b) an apparatus, implement, or device, by whatever name known, specifically designed to be used in conducting an illegal gambling enterprise, including a faro box, faro layout, roulette wheel, roulette table, or craps table or a slot machine except as provided in [23-5-153](#).
- (17) "Illegal gambling enterprise" means a gambling enterprise that violates or is not specifically authorized by a statute or a rule of the department. The term includes:
- (a) a card game, by whatever name known, involving any bank or fund from which a participant may win money or other consideration and that receives money or other consideration lost by the participant and includes the card



games of blackjack, twenty-one, jacks or better, baccarat, or chemin de fer;

(b) a dice game, by whatever name known, in which a participant wagers on the outcome of the roll of one or more dice, including craps, hazard, or chuck-a-luck, but not including activities authorized by [23-5-160](#);

(c) sports betting, by whatever name known, in which a person places a wager on the outcome of an athletic event, including bookmaking, parlay bets, or sultan sports cards, but not including those activities authorized in chapter 4 of this title and parts 2, 5, and 8 of this chapter; and

(d) credit gambling.

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

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

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

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

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

(23) "Lottery" means a scheme, by whatever name known, for the disposal or distribution of property among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance. The term does not mean lotteries authorized under chapter 7 of this title.

(24) "Manufacturer" means a person who assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device and who sells the equipment directly to a licensed distributor, route operator, or operator.

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

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

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

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

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

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

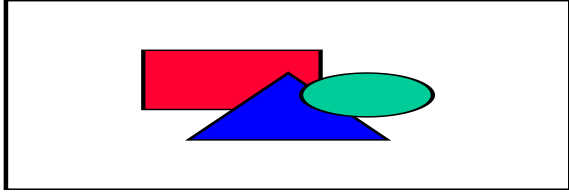
(31) "Public gambling" means gambling conducted in:

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

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

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

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



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

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

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

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

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

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

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

History

History: En. Secs. 2, 3, Ch. 197, L. 1949; Secs. 94-2429, 94-2431, R.C.M. 1947; redes. 94-8-429, 94-8-430 by Sec. 29, Ch. 513, L. 1973; amd. Secs. 24, 25, Ch. 508, L. 1977; R.C.M. 1947, 94-8-429, 94-8-430; amd. Sec. 3, Ch. 642, L. 1989; Sec. 23-5-101, MCA 1987; redes. 23-5-112 by Code Commissioner, 1989; amd. Sec. 1, Ch. 473, L. 1991; amd. Sec. 8, Ch. 523, L. 1991; amd. Sec. 1, Ch. 647, L. 1991; amd. Sec. 3, Ch. 398, L. 1993; amd. Sec. 2, Ch. 626, L. 1993; amd. Sec. 78, Ch. 546, L. 1995; amd. Sec. 1, Ch. 13, L. 1997; amd. Sec. 1, Ch. 252, L. 1997.

23-5-113 Department as criminal justice agency -- seized property.

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

(2) Upon conviction for any violation of parts 1 through 8 of this chapter, the court may order any property seized by a department or local law enforcement agent during a lawful search to be forfeited to the department, sold, if necessary, and disposed of under [23-5-123](#).

History

History: En. Sec. 5, Ch. 642, L. 1989; amd. Sec. 2, Ch. 647, L. 1991; amd. Sec. 4, Ch. 398, L. 1993.

23-5-114. Department employees -- activities prohibited.

(1) An employee of the department directly involved with the prosecution, investigation, regulation, or licensing of gambling, as designated by the attorney general, may not:

(a) serve as an officer of a business or organization that conducts a gambling activity, other than as an officer of a nonprofit organization;

(b) be employed by a licensed operator in any capacity that requires assisting in conducting a gambling activity regulated under parts 1 through 6 of this chapter or maintaining records for the gambling activity;

(c) have a beneficial or pecuniary interest in a contract for the manufacture, lease, or sale of a gambling device, the

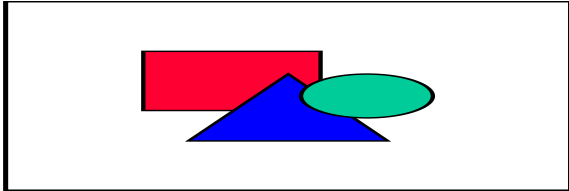
conduct of a gambling activity, or the provision of independent consultant services in connection with a gambling activity; or

(d) participate in a gambling activity governed by parts 1 through 6 of this chapter, except in performing assigned employment duties. An employee may participate in a gambling activity governed by chapter 4 or 7 of this title.

(2) The prohibitions in subsections (1)(a) through (1)(c) apply to a former designated department employee during the first year following termination from employment with the department if the employee was directly involved with the prosecution, investigation, regulation, or licensing of gambling immediately before termination.

History

History: En. Sec. 6, Ch. 642, L. 1989; amd. Sec. 26, Ch. 647, L. 1991.



23-5-116. Disclosure of information. (1) The department shall, upon request, disclose the following information from a license or permit application:

(a) the applicant's name;

(b) the address of the business where the activity under the license or permit is to be conducted;

(c) the name of each person who has an ownership interest in the business; and

(d) the types of permits requested by the applicant.

(2) The department shall, upon request, disclose:

(a) public criminal justice information, as defined in [44-5-103](#), as required by [44-5-301](#);

(b) all records and other information, except confidential criminal justice information, as defined in [44-5-103](#), that relates to:

(i) a sanction imposed under [23-5-136](#), for a violation of this chapter or a department rule; or

(ii) any other civil or administrative sanction or penalty imposed under a provision of this chapter or a department rule for a violation of this chapter or a department rule.

(3) In addition to the information enumerated in subsections (1) and (2), the department may disclose any other relevant information obtained in the application or tax reporting process or as a result of other department operations to:

(a) a federal, state, city, county, or tribal criminal justice agency;

(b) the department of revenue and the federal internal revenue service; and

(c) a gambling regulatory agency of another state, a local government unit of another state, a tribal government, or a foreign nation, provided that the disclosure of the information complies with the law of that jurisdiction and that the receiving entity has been approved for receipt by the Montana attorney general.

History

History: En. Sec. 4, Ch. 647, L. 1991; amd. Sec. 1, Ch. 132, L. 1995; amd. Sec. 1, Ch. 178, L. 1995.

23-5-117. Premises approval.

(1) Except as provided in subsection (4), the department may approve a premises for issuance of an operator's license if the premises meets the requirements contained in subsections (2) and (3).

(2) The premises must:

(a) be a structure or facility that is clearly defined by permanently installed walls that extend from floor to ceiling;

(b) have a unique address assigned by the local government in which the premises is located; and

(c) have a public external entrance, leading to a street or other common area, that is not shared with another premises for which an operator's license has been issued.

(3) If the premises shares a common internal wall with another premises for which an operator's license has been issued, the common wall must be permanently installed, opaque, and extend from floor to ceiling and may not contain an internal entrance through which public access is allowed.

(4) A second operator's license may be issued or renewed until June 30, 2001, for a person operating a gambling

activity on a premises that did not meet the requirements of subsections (2) and (3) if:

- (a) the second operator's license was issued to the person on or before January 1, 1991; or
 - (b) (i) the application for the second operator's license was received by the department on or before January 1, 1991;
 - (ii) a second on-premises alcoholic beverages license was obtained for the premises on or before January 1, 1991;
- and
- (iii) substantial physical modifications to the premises were made on or before January 1, 1991.

History

History: En. Sec. 7, Ch. 647, L. 1991; amd. Sec. 6, Ch. 398, L. 1993; amd. Sec. 2, Ch. 480, L. 1995.

23-5-118. Transfer of ownership interest.

(1) In this section, "licensed gambling operation" means a business for which a license was obtained under parts 1 through 8 of this chapter.

(2) Except as provided in subsection (3), an owner of an interest in a licensed gambling operation shall notify the department in writing and receive approval from the department before transferring any ownership interest in the operation.

(3) This section does not apply to the transfer of a security interest in a licensed gambling operation or to the transfer of less than 5% of the interest in a publicly traded corporation.

History

History: En. Sec. 8, Ch. 647, L. 1991; amd. Sec. 7, Ch. 398, L. 1993.

23-5-119. Appropriate alcoholic beverage license for certain gambling activities.

(1) To be eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6, an applicant shall own in the applicant's name:

(a) a retail all-beverages license issued under [16-4-201](#);

(b) except as provided in subsection (1)(c), a license issued prior to October 1, 1997, under [16-4-105](#), authorizing the sale of beer and wine for consumption on the licensed premises; or

(c) a beer and wine license issued in an area outside of an incorporated city or town as provided in [16-4-105](#)(1)(e).

The owner of the license whose premises are situated outside of an incorporated city or town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(2) For purposes of subsection (1)(b), a license issued under [16-4-105](#) prior to October 1, 1997, may be transferred to a new owner or to a new location or transferred to a new owner and location by the department of revenue pursuant to the applicable provisions of Title 16. The owner of the license that has been transferred may offer gambling if the owner and the premises qualify under Title 23, chapter 5, part 3, 5, or 6.

History

History: En. Sec. 5, Ch. 465, L. 1997.

23-5-130. Allowable compensation for route operator.

The compensation that a licensed route operator may receive for leasing a video gambling machine to a licensed operator is limited to a set fee or a percentage of gross machine income, or both a set fee and percentage amount. The route operator may not assume responsibility for any expenses of the operator's business except for expenses associated with:

(1) paying video gambling machine permit fees and taxes;

(2) conducting video gambling machine promotional activities;

(3) maintaining and repairing video gambling machines;

(4) supplying funds to allow an operator to exchange a player's money for other coin or currency for operating a video gambling machine and to pay out prizes won by players;

(5) providing accounting and recordkeeping services for video gambling machines; and

(6) other activities, if allowed by department rule.

History

History: En. Sec. 16, Ch. 626, L. 1993.

23-5-131. Losses at illegal gambling may be recovered in civil action.

A person, or his dependent or guardian, who, by playing or betting at an illegal gambling device or illegal gambling enterprise, loses money, property, or any other thing of value and pays and delivers it to another person connected with the operation or conduct of the illegal gambling device or illegal gambling enterprise, within 1 year following his loss, may:

- (1) bring a civil action in a court of competent jurisdiction to recover the loss;
- (2) recover the costs of the civil action and exemplary damages of no less than \$500 and no more than \$5,000; and
- (3) join as a defendant any person having an interest in the illegal gambling device or illegal gambling enterprise.

History

History: En. Sec. 15, Ch. 115, L. 1907; Sec. 8430, Rev. C. 1907; re-en. Sec. 11173, R.C.M. 1921; re-en. Sec. 11173, R.C.M. 1935; Sec. 94-2418, R.C.M. 1947; redes. 94-8-418 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 94-8-418; amd. Sec. 13, Ch. 642, L. 1989.

23-5-135. Discharge of defendant.

(1) A person against whom a civil action is brought as provided in [23-5-131](#) may move to have the action against him dismissed if he has repaid to the person who suffered the loss or his dependent the gambling loss, the costs of bringing the civil action, and the exemplary damages agreed upon by the parties or assessed by the court.

(2) A civil action brought to recover gambling losses does not bar or interfere with another proceeding or action, whether criminal, civil, or administrative, that may be brought under the laws of the state.

History

History: En. Sec. 18, Ch. 115, L. 1907; Sec. 8433, Rev. C. 1907; re-en. Sec. 11176, R.C.M. 1921; re-en. Sec. 11176, R.C.M. 1935; Sec. 94-2421, R.C.M. 1947; redes. 94-8-421 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 94-8-421(part); amd. Sec. 14, Ch. 642, L. 1989.

23-5-136. Injunction and other remedies.

(1) If a person has engaged or is engaging in an act or practice constituting a violation of a provision of parts 1 through 8 of this chapter or a rule or order of the department, the department may:

(a) upon clear and convincing evidence, issue a temporary order to cease and desist from the gambling activity, act, or practice for a period not to exceed 60 days;

(b) following notice and an opportunity for hearing, and with the right of judicial review, under the Montana Administrative Procedure Act:

(i) issue a permanent order to cease and desist from the act or practice, which order remains in effect pending judicial review;

(ii) place a licensee on probation;

(iii) suspend for a period not to exceed 180 days a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;

(iv) revoke a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;

(v) impose a civil penalty not to exceed \$10,000 for each violation, whether or not the person is licensed by the department; and

(vi) impose any combination of the penalties contained in this subsection (1)(b); and

(c) bring an action in district court for relief against the act or practice. The department may not be required to post a bond. On proper showing, the court may:

(i) issue a restraining order, a temporary or permanent injunction, or other appropriate writ;

(ii) suspend or revoke a license or permit; and

(iii) appoint a receiver or conservator for the defendant or the assets of the defendant.

(2) The department may issue a warrant for distraint against an operator who fails to pay a civil penalty imposed under subsection (1) or a tax imposed under [23-5-409](#) or [23-5-610](#). The department may issue the warrant for the amount of the unpaid penalty or for the amount of the unpaid tax, plus penalty and accumulated interest on the tax,

and shall follow the procedures provided in [15-1-701](#) through [15-1-708](#).

(3) (a) A civil penalty imposed under this section must be collected by the department and distributed as provided in [23-5-123](#). The local government portion of the penalty payment is statutorily appropriated to the department, as provided in [17-7-502](#), for deposit to the county or municipal treasury.

(b) If a person fails to pay the civil penalty, the amount due is a lien on the person's licensed premises and gambling devices in the state and may be recovered by the department in a civil action.

History

History: En. Sec. 8, Ch. 642, L. 1989; amd. Sec. 27, Ch. 647, L. 1991; amd. Sec. 9, Ch. 398, L. 1993; amd. Sec. 3, Ch. 626, L. 1993.

23-5-151. Gambling prohibited.

Except as specifically authorized by statute, all forms of public gambling, lotteries, and gift enterprises are prohibited.

History

History: En. Sec. 600, Pen. C. 1895; amd. Sec. 1, p. 80, L. 1897; amd. Secs. 1, 2 and 3, pp. 166, 167, L. 1901; amd. Sec. 1, Ch. 115, L. 1907; re-en. Sec. 8416, Rev. C. 1907; amd. Sec. 1, Ch. 86, L. 1917; re-en. Sec. 11159, R.C.M. 1921; Cal. Pen. C. Sec. 330; re-en. Sec. 11159, R.C.M. 1935; amd. Sec. 1, Ch. 153, L. 1937; Sec. 94-2401, R.C.M. 1947; redes. 94-8-401 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 19, Ch. 508, L. 1977; R.C.M. 1947, 94-8-401; amd. Sec. 15, Ch. 642, L. 1989; Sec. 23-5-102, MCA 1987; redes. 23-5-151 by Code Commissioner, 1989.

23-5-152. Possession of illegal gambling device or conducting illegal gambling enterprise prohibited -- exceptions.

(1) Except as provided in [23-5-153](#) and subsections (2) through (5) of this section, it is a misdemeanor punishable under [23-5-161](#) for a person to purposely or knowingly:

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

(b) operate an illegal gambling enterprise.

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

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

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

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

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

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

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

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

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

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

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

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

adopted under subsection (3)(a).

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

(a) in a public or private museum; or

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

History

History: En. Sec. 2, Ch. 115, L. 1907; Sec. 8417, Rev. C. 1907; re-en. Sec. 11160, R.C.M. 1921; re-en. Sec. 11160, R.C.M. 1935; Sec. 94-2404, R.C.M. 1947; redes. 94-8-404 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 20, Ch. 508, L. 1977; R.C.M. 1947, 94-8-404; amd. Sec. 21, Ch. 642, L. 1989; Sec. 23-5-103, MCA 1987; redes. 23-5-152 by Code Commissioner, 1989; amd. Sec. 1, Ch. 211, L. 1991; amd. Sec. 5, Ch. 647, L. 1991; amd. Sec. 5, Ch. 626, L. 1993; amd. Sec. 1, Ch. 354, L. 1997.

23-5-154. Soliciting participation in illegal gambling activity prohibited.

A person who purposely or knowingly advertises for or solicits another person to participate in an illegal gambling enterprise or use an illegal gambling device is guilty of a misdemeanor and is punishable under [23-5-161](#).

History

History: En. Sec. 5, Ch. 115, L. 1907; Sec. 8420, Rev. C. 1907; re-en. Sec. 11163, R.C.M. 1921; Cal. Pen. C. Sec. 318; re-en. Sec. 11163, R.C.M. 1935; Sec. 94-2407, R.C.M. 1947; redes. 94-8-407 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 94-8-407; amd. Sec. 17, Ch. 642, L. 1989; Sec. 23-5-108, MCA 1987; redes. 23-5-154 by Code Commissioner, 1989; amd. Sec. 29, Ch. 647, L. 1991.

23-5-156. Offering or obtaining anything of value by fraud or operation of illegal gambling device or enterprise.

(1) A person who in an activity involving gambling offers or obtains money, property, or anything of value that does not exceed \$750 in value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a misdemeanor and is punishable as provided in [23-5-161](#).

(2) A person who in an activity involving gambling offers or obtains money, property, or anything of value that exceeds \$750 in value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a felony and is punishable as provided in [23-5-162](#).

(3) A person who in an activity involving gambling offers or obtains money, property, or anything of value as part of a common scheme, as defined in [45-2-101](#), by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a felony and is punishable as provided in [23-5-162](#).

History

History: En. Sec. 18, Ch. 642, L. 1989; amd. Sec. 30, Ch. 647, L. 1991; amd. Sec. 2, Ch. 252, L. 1997.

23-5-157. Gambling on cash basis -- penalties.

(1) (a) In every gambling activity, except raffles as authorized in [23-5-413](#) and card games authorized in part 3 of this chapter and normally scored using points, the consideration paid for the chance to play must be made in cash. A check or credit card may be used to obtain cash to participate in a gambling activity. A participant shall present the cash needed to play the game as the game is being played. If a check or credit card is used to obtain cash on the premises of a licensee then it must be delivered and accepted unconditionally. A licensee or employee of a licensee may not hold a check or other evidence of indebtedness for redemption pending the outcome of a gambling activity.

(b) Credit gambling is prohibited. Credit gambling is offering or accepting as part of the price of participation in a gambling activity or as payment of a debt incurred in a gambling activity:

(i) a check or credit card held pending the outcome of a gambling activity;

(ii) a loan of any kind at any time from or on behalf of a licensee;

(iii) any form of deferred payment, including a note, IOU, post-dated check, hold check, or other evidence of indebtedness; or

(iv) a check issued or delivered that is accepted by the licensee with the knowledge that it will not be paid by the

depository.

(2) A person who violates this section is guilty of a criminal offense under [23-5-156](#) and must be punished in accordance with [23-5-161](#) or [23-5-162](#).

History

History: En. Sec. 19, Ch. 642, L. 1989; amd. Sec. 10, Ch. 398, L. 1993; amd. Sec. 6, Ch. 626, L. 1993; amd. Sec. 3, Ch. 252, L. 1997.

23-5-158. Minors not to participate -- penalty -- exception.

(1) Except as provided in subsection (3), a person may not purposely or knowingly allow a person under 18 years of age to participate in a gambling activity. A person who violates this subsection is guilty of a misdemeanor and must be punished in accordance with [23-5-161](#).

(2) Except as provided in subsection (3), a person under 18 years of age may not purposely or knowingly participate in a gambling activity. A person who violates this subsection is subject to a civil penalty not to exceed \$50 if the proceedings for violating this subsection are held in justice's, municipal, or city court. If the proceedings are held in youth court, the offender must be treated as an alleged youth in need of intervention, as defined in [41-5-103](#). The youth court may enter its judgment under [41-5-1512](#).

(3) A person under 18 years of age may sell or buy tickets for or receive prizes from a raffle conducted in compliance with [23-5-413](#) if proceeds from the raffle, minus administrative expenses and prizes paid, are used to support charitable activities, scholarships or educational grants, or community service projects.

History

History: En. Sec. 20, Ch. 642, L. 1989; amd. Sec. 31, Ch. 647, L. 1991; amd. Sec. 7, Ch. 626, L. 1993; amd. Sec. 4, Ch. 550, L. 1997.

23-5-165. Fishing derbies and wagering on natural occurrences.

(1) The following are authorized gambling activities:

(a) a fishing derby in which two or more persons pay valuable consideration for an opportunity to win a prize for the species, size, weight, or otherwise specified fish caught in a fishing event; and

(b) wagering on the outcome of a natural occurrence in which two or more persons pay valuable consideration for an opportunity to win a prize by most accurately predicting the date or time of an event resulting from a climatological or meteorological activity.

(2) Except as provided in subsection (3), all consideration paid to participate in a gambling activity authorized in subsection (1) must be paid to the winners.

(3) A nonprofit organization sponsoring a gambling activity authorized in subsection (1) may retain up to 50% of the total amount paid to participate.

(4) This section does not apply to a gambling activity conducted under chapter 4 or chapter 5, part 2 or 3, of this title.

History

History: En. Sec. 55, Ch. 647, L. 1991.

23-5-171. Authority of local governments to regulate gambling.

(1) A local government may not license or regulate a form of gambling authorized by parts 1 through 8 of this chapter or assess or charge any fees or taxes unless specifically authorized by statute.

(2) An incorporated city or town may enact an ordinance or resolution zoning certain areas within its incorporated limits in which gambling is prohibited.

(3) A county may enact a resolution zoning certain areas in the county, not within an incorporated city or town, in which gambling is prohibited.

(4) A county or incorporated city or town may not restrict the number of licenses that the department may issue.

History

History: En. Sec. 4, Ch. 642, L. 1989; amd. Sec. 13, Ch. 398, L. 1993.

23-5-172. Prosecution.

The county attorney of the county in which a violation of a provision of parts 1 through 8 of this chapter occurs shall prosecute all gambling actions within the jurisdiction of the department. However, if the county attorney declines prosecution or fails to commence an action within a reasonable time, the attorney general may initiate and conduct the prosecution on behalf of the state.

History

History: En. Sec. 25, Ch. 642, L. 1989; amd. Sec. 14, Ch. 398, L. 1993.

23-5-176. Qualifications for licensure.

(1) A person who the department determines is qualified to receive a license under the provisions of this chapter may, based on information available to, required by, or supplied to the department under department rules, be issued a state gambling license.

(2) Except as provided in subsection (4), the department shall issue a license unless the department can demonstrate that the applicant:

(a) is a person whose prior financial or other activities or criminal record:

(i) poses a threat to the public interest of the state;

(ii) poses a threat to the effective regulation and control of gambling; or

(iii) creates a danger of illegal practices, methods, or activities in the conduct of gambling or in the carrying on of the business and financial arrangements incidental to gambling;

(b) has been convicted of a felony offense within 5 years of the date of application or is on probation or parole or under deferred prosecution for committing a felony offense; or

(c) is receiving a substantial amount of financing for the proposed operation from an unsuitable source. A lender or other source of money or credit that the department finds to meet the provisions of subsection (2)(a) may be considered an unsuitable source.

(3) The provisions of [37-1-203](#) and [37-1-205](#) do not apply to licensing determinations made under this section.

(4) The department may deny a license or permit to an applicant who has falsified a license or permit application. If the falsification is determined after the license or permit has been issued, the department may revoke the license or permit.

History

History: En. Sec. 10, Ch. 642, L. 1989; amd. Sec. 33, Ch. 647, L. 1991.

23-5-177. Operator of gambling establishment -- license -- fee.

(1) It is a misdemeanor for a person who is not licensed by the department as an operator to make available to the public for play a gambling device or gambling enterprise for which a permit must be obtained from the department.

(2) To obtain an operator's license, a person shall submit to the department:

(a) a completed operator's license application on a form prescribed and furnished by the department;

(b) any other relevant information requested by the department; and

(c) a license application processing fee, as required in subsection (8).

(3) Before issuing an operator's license, the department shall approve, in accordance with [23-5-117](#), the premises in which the gambling activity is to be conducted.

(4) Except as provided in [23-5-117](#), regardless of the number of on-premises alcoholic beverage licenses issued for a premises, the department may issue only one operator's license for the premises.

(5) An operator's license must include the following information:

(a) a description of the premises upon which the gambling will take place;

(b) the operator's name;

(c) a description of each gambling device or card game table for which a permit has been issued to the operator by the department for play upon the premises, including the type of game and permit number for each game; and

(d) any other relevant information determined necessary by the department.

(6) The operator's license must be issued annually along with all other permits for gambling devices or games issued

to the operator.

(7) The operator's license must be updated each time a video gambling machine, bingo, keno, or card game table permit is newly issued or the machine or game is removed from the premises.

(8) The department shall charge an applicant who has submitted an operator's license application on or after July 1, 1991, a one-time license application processing fee to cover the actual cost incurred by the department in determining whether the applicant qualifies for licensure under [/cgi-bin/om_isapi.dll?clientID=7945&infobase=MCA_97.NFO&jump=23-5-176&softpage=Document - JUMPDEST_23-5-17623-5-176](#). After making its determination, the department shall refund any overpayment or charge and collect amounts sufficient to reimburse the department for any underpayment of actual costs.

(9) The operator's license must be prominently displayed upon the premises for which it is issued.

History

History: En. Sec. 11, Ch. 642, L. 1989; amd. Sec. 4, Ch. 473, L. 1991; amd. Sec. 6, Ch. 647, L. 1991.

PART 3 CARD GAMES ACT

23-5-306. Live card game table -- permit -- fees -- disposition of fees.

(1) (a) A person who has been granted an operator's license under [23-5-177](#) and who holds an appropriate license to sell alcoholic beverages for consumption on the premises, as provided in [23-5-119](#), may be granted an annual permit for the placement of live card game tables.

(b) The department may issue an annual permit for the placement of live card game tables to a person operating a premises not licensed to sell alcoholic beverages for consumption on the premises if:

- (i) one or more live card game tables were legally operated on the premises on January 15, 1989;
- (ii) the premises were licensed on January 15, 1989, to sell food, cigarettes, or any other consumable product;
- (iii) the person has been granted an operator's license under [23-5-177](#); and
- (iv) at the time of application for the permit:

(A) the person has continuously operated a live card game table on the premises since January 15, 1989; and

(B) the natural person or persons who own the business operated on the premises are the same as on January 15, 1989.

(2) The annual permit fee in lieu of taxes for each live card game table operated in a licensed operator's premises may not be prorated and must be:

- (a) \$250 for the first table; and
- (b) \$500 for each additional table.

(3) The department shall retain for administrative purposes \$100 of the fee collected under this part for each live card game table.

(4) The department shall forward on a quarterly basis the remaining balance of the fee collected under subsection (2) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the live card game table is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from fees assessed on live card game tables located in incorporated cities and towns within the county. The local government portion of this fee is statutorily appropriated to the department, as provided in [17-7-502](#), for deposit to the county or municipal treasury.

History

History: En. Sec. 29, Ch. 642, L. 1989; amd. Sec. 1, Ch. 18, Sp. L. January 1992; amd. Sec. 9, Ch. 626, L. 1993; amd. Sec. 8, Ch. 465, L. 1997.

23-5-307. Live card game tables -- hours of play -- restriction.

Live card game tables must be closed for play between the hours of 2 a.m. and 8 a.m. each day. However, in the jurisdiction of a local government where a game is played, the local government may adopt an ordinance allowing play between 2 a.m. and 8 a.m.

History

History: En. Sec. 32, Ch. 642, L. 1989.

23-5-308. Card game dealers -- license.

- (1) Except as provided in [23-5-318](#), a person may not deal cards in a live card game of panguingue or poker without being licensed annually by the department.
- (2) The fee for the first year in which the license is effective is \$75, and the annual renewal fee is \$25. The fee may not be prorated.
- (3) The department shall retain for administrative purposes the license fee charged for the issuance of a dealer's license.
- (4) A licensed dealer shall have on his person, and display upon request, his dealer's license when he is working as a dealer.
- (5) (a) The department shall adopt rules to implement temporary licensing procedures until a permanent license is issued to a dealer.
(b) The rules must provide that:
 - (i) a temporary license may be obtained at the place where a person locally applies for a driver's license; and
 - (ii) the receipt received upon mailing by certified mail a completed license application and the fee required under subsection (2), return receipt requested, constitutes a temporary license.
(c) The department may not assess a fee for the temporary license.

History

History: En. Sec. 28, Ch. 642, L. 1989; amd. Sec. 35, Ch. 647, L. 1991; amd. Sec. 2, Ch. 317, L. 1993.

23-5-309. Requirements for conducting card games.

- (1) Except as provided in [23-5-310](#), [23-5-317](#), and [23-5-318](#), a live card game must be played on a live card game table for which a permit has been issued and on the premises of a licensed operator.
- (2) Except as provided in [23-5-318](#), a live card game of panguingue or poker must be played in the presence and under the control of a licensed dealer.

History

History: En. Sec. 27, Ch. 642, L. 1989; amd. Sec. 36, Ch. 647, L. 1991; amd. Sec. 3, Ch. 317, L. 1993; amd. Sec. 15, Ch. 398, L. 1993.

23-5-310. Exemption from certain sections.

A senior citizen center is exempt from [23-5-306](#), [23-5-308](#), and [23-5-309](#) if the center:

- (1) limits participation in live card games to its members and members' guests;
- (2) limits live card game activities to its main premises or place of operation; and
- (3) does not operate live card games in a predominantly commercial manner.

History

History: En. Sec. 2, Ch. 473, L. 1991.

23-5-311. Authorized card games.

- (1) The card games authorized by this part are and are limited to the card games known as bridge, cribbage, hearts, panguingue, pinochle, pitch, poker, rummy, solo, and whist.
- (2) A person may conduct or participate in a live card game or make a live card game table available for public play of a live card game only if it is specifically authorized by this part and described by department rules.
- (3) This part does not apply to games simulated on electronic video gambling machines authorized under part 6 of this chapter.

History

History: En. 62-703 by Sec. 3, Ch. 293, L. 1974; R.C.M. 1947, 62-703; amd. Sec. 26, Ch. 642, L. 1989.
History: En. 62-709 by Sec. 9, Ch. 293, L. 1974; amd. Sec. 4, Ch. 508, L. 1977; R.C.M. 1947, 62-709.

23-5-312. Prizes not to exceed three hundred dollars.

(1) A prize for an individual live card game may not exceed the value of \$300. Games may not be combined in any manner so as to increase the value of the ultimate prize awarded. Except during a tournament conducted under [23-5-317](#), all prizes must be awarded immediately upon completion of each hand.

(2) If a licensed operator conducts a promotional game of chance involving a live card game, the prize limit provided for in subsection (1) applies to prizes awarded as a result of the promotional game of chance.

History

History: En. 62-704 by Sec. 4, Ch. 293, L. 1974; R.C.M. 1947, 62-704; amd. Sec. 31, Ch. 642, L. 1989; amd. Sec. 10, Ch. 626, L. 1993.

23-5-313. Rules of play to be posted -- rake-off approved.

Rules governing the conduct of each game must be prominently posted within the sight of the players at a live card game table on the premises of a licensed operator. The rules must include notice of the maximum percentage rake-off, if any, and must require that the person taking the rake-off do so in an obvious manner.

History

History: En. 62-705 by Sec. 5, Ch. 293, L. 1974; R.C.M. 1947, 62-705; amd. Sec. 33, Ch. 642, L. 1989.

23-5-314. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. 62-706 by Sec. 6, Ch. 293, L. 1974; amd. Sec. 1, Ch. 508, L. 1977; R.C.M. 1947, 62-706.

23-5-315. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

23-5-316. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. 62-710 by Sec. 10, Ch. 293, L. 1974; amd. Sec. 5, Ch. 508, L. 1977; R.C.M. 1947, 62-710.

23-5-317. Tournaments.

(1) Subject to the department's approval, a licensed operator who has a permit for placing at least 1 live card game table on the operator's premises may conduct up to 12 live card game tournaments a year on his premises. Each tournament may be conducted for no more than 5 consecutive days. If an operator conducts more than one tournament a year, at least 7 days must lapse between the conclusion of one tournament and the beginning of the next tournament.

(2) (a) Before the start of a tournament, the operator shall submit to the department an application for a tournament permit. The permit application must be accompanied by a \$10 fee. The department shall retain the fee for administrative purposes.

(b) If a tournament is to be conducted on the premises of more than one licensed operator, each operator shall submit a permit application and processing fee. The permit is applied toward each operator's annual 12-tournament limit.

(3) Permits for placement of additional live card game tables, as provided in [23-5-306](#), are not required for additional tables authorized under a tournament permit.

(4) Tournament participants must be provided with a copy of the tournament rules before the start of the tournament. A copy of the rules must be posted in a conspicuous location in each area where the tournament is conducted.

(5) A person must be present on the premises during the tournament to oversee the conduct of the card games and to settle disputes among players. This person may be a dealer licensed under [23-5-308](#).

(6) Only a dealer licensed under [23-5-308](#) may deal cards at a poker or panguingue tournament.

(7) A licensed operator may charge a tournament participant an entry fee, which may include a fee to cover expenses incurred in conducting the tournament. A participant who has been eliminated from competition during the tournament may reenter the tournament by paying an additional fee if permitted to do so under tournament rules. A rake-off may not be taken during a tournament card game.

(8) The face value of the chips used does not govern the value of the pot awarded at the end of the tournament.

(9) The provisions of this part and the department rules governing live card games apply to live card games conducted as part of a tournament unless otherwise provided.

History

History: En. Sec. 37, Ch. 647, L. 1991; amd. Sec. 11, Ch. 626, L. 1993.

23-5-318. Poker run defined -- authorization -- conditions.

(1) For the purposes of this section, "poker run" means a gambling activity involving a live poker card game conducted in the following manner:

(a) Each person pays valuable consideration to participate.

(b) A participant travels to designated locations and obtains a playing card at each location. Cards accumulated by the participant constitute a poker hand.

(c) After each participant has accumulated the required number of cards, the participants' poker hands are ranked as described in the poker run rules to determine the winner.

(2) It is lawful to conduct or participate in a poker run subject to the following conditions:

(a) Each participant must receive a copy of the rules for conducting the poker run before the poker run begins. The rules must include:

(i) the amount of the entry fee;

(ii) the type of poker game being played and ranking of poker hands;

(iii) the value of the prizes to be awarded;

(iv) a description of the locations where playing cards may be obtained; and

(v) the date and time during which the poker run will be conducted.

(b) The rules may provide for more than one winner of the ranked hands, with each winner receiving a prize, but a prize may not exceed \$300 in value.

(c) Except as provided in subsection (2)(d), all consideration paid to participate in a poker run must be expended on the prize or prizes.

(d) If a poker run is conducted by a nonprofit organization, as defined in [23-5-112](#), the organization may retain a portion of the total amount paid to participate.

History

History: En. Sec. 1, Ch. 317, L. 1993.

23-5-319. Pinochle tournaments.

(1) Subject to the department's approval, a nonprofit organization is entitled, upon submission of a permit application and payment of a \$25 fee, to a permit for sponsoring a pinochle tournament. A nonprofit organization is entitled to only one permit in each calendar year. The department shall retain the fee for administrative purposes. The tournament may be conducted for no more than 3 consecutive days and may be conducted at one or more premises.

(2) The tournament may be managed and operated only by members of the nonprofit organization that was issued the permit under subsection (1), and members may not be compensated for their services.

(3) Tournament participants must be provided with a copy of the tournament rules before the start of the tournament. A copy of the rules must be posted in a conspicuous location in each area and premises where the tournament is conducted. A person must be present on the premises during the tournament to oversee the conduct of the card games and to settle disputes among players.

(4) A tournament sponsor may charge a tournament participant an entry fee, which may include a fee to cover expenses incurred in conducting the tournament.

(5) Proceeds from the tournament, after payment of reasonable administrative expenses, may be used only for a civic, charitable, or educational purpose, and administrative expenses may not exceed 50% of the proceeds.

(1) A prize for an individual live card game may not exceed the value of \$300. Games may not be combined in any manner so as to increase the value of the ultimate prize awarded. Except during a tournament conducted under [23-5-317](#), all prizes must be awarded immediately upon completion of each hand.

(2) If a licensed operator conducts a promotional game of chance involving a live card game, the prize limit provided for in subsection (1) applies to prizes awarded as a result of the promotional game of chance.

History

History: En. 62-704 by Sec. 4, Ch. 293, L. 1974; R.C.M. 1947, 62-704; amd. Sec. 31, Ch. 642, L. 1989; amd. Sec. 10, Ch. 626, L. 1993.

23-5-320 reserved.

23-5-321. Issuance of permits by local governing bodies prohibited.

A city, town, or county may not issue permits for live card games or live card game tables authorized in this part.

History

History: En. 62-707 by Sec. 7, Ch. 293, L. 1974; amd. Sec. 2, Ch. 508, L. 1977; R.C.M. 1947, 62-707; amd. Sec. 30, Ch. 642, L. 1989.

23-5-322. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. 62-708 by Sec. 8, Ch. 293, L. 1974; amd. Sec. 3, Ch. 508, L. 1977; R.C.M. 1947, 62-708.

23-5-323. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. 62-711 by Sec. 11, Ch. 293, L. 1974; R.C.M. 1947, 62-711.

5-324. Card room contractor's license -- fee -- submission of contract.

(1) It is a misdemeanor for a person to enter into a contract with a licensed operator to operate one or more live card game tables on the operator's premises without obtaining a card room contractor's license from the department.

(2) The department shall charge an annual license fee of \$150 for issuing or renewing a card room contractor's license. The department shall retain the fee for administrative purposes.

(3) The applicant shall submit at the time of application for a card room contractor's license a copy of the agreement entered into with the licensed operator.

History

History: En. Sec. 9, Ch. 647, L. 1991.

23-5-325 through 23-5-330 reserved.

23-5-331. Penalty.

A person who purposely or knowingly violates or who procures, aids, or abets in a violation of this part or any ordinance, resolution, or rule adopted pursuant to this part is guilty of a misdemeanor punishable pursuant to [23-5-161](#).

History

History: En. 62-712 by Sec. 12, Ch. 293, L. 1974; R.C.M. 1947, 62-712; amd. Sec. 34, Ch. 642, L. 1989.

23-23-5-332. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. 62-713 by Sec. 13, Ch. 293, L. 1974; amd. Sec. 6, Ch. 508, L. 1977; R.C.M. 1947, 62-713.

PART 4 BINGO AND RAFFLES

23-5-405. Authorized live bingo, keno, and raffles.

(1) A person may conduct or participate in a live bingo and keno game or raffle only if it is operated pursuant to this part.

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

History

History: En. Sec. 35, Ch. 642, L. 1989.

23-5-406. Exempt charitable organizations and facilities.

(1) (a) An organization granted an exemption under 26 U.S.C. 501(c)(3), (c)(4), (c)(8), or (c)(19):

(i) on or before January 15, 1989, is exempt from taxation and the permit fee imposed by this part;

(ii) after January 15, 1989, is exempt from taxation and one-half the permit fee imposed by this part if the organization carries on gambling activities for no more than 60 days a calendar year.

(b) An organization provided for in subsection (1)(a) shall:

(i) limit its live bingo and keno activities to its main premises or place of operations and to events at other places operated by other charitable organizations or by a government unit or entity;

(ii) comply with other statutes and rules relating to the operation of live bingo and keno; and

(iii) apply to the department for a permit to conduct charitable live bingo or keno games.

(2) A long-term care facility, as defined in [50-5-101](#), or a retirement home, as defined in subsection (4) of this section, that has obtained an operator's license and a permit from the department to operate live bingo or keno is exempt from taxation and the permit fee imposed by this part if the facility:

(a) limits participation in live bingo and keno games to persons using the facility and their guests;

(b) limits live bingo or keno activities to its main premises or place of operation; and

(c) complies with other statutes and rules relating to the operation of live bingo and keno.

(3) The department may revoke or suspend the permit of an organization or a facility provided for in subsection (1) or (2) if, after investigation, the department determines that the organization or facility is operating or has contracted with a nonqualified organization that is operating live bingo or keno in a predominantly commercial manner.

(4) For purposes of this section, "retirement home" means a building in which sleeping rooms without cooking facilities in each room are rented to three or more persons who are 60 years of age or older and who do not need skilled nursing care, intermediate nursing care, or personal care, as defined in [50-5-101](#).

History

History: En. Sec. 36, Ch. 642, L. 1989; amd. Sec. 38, Ch. 647, L. 1991; amd. Sec. 127, Ch. 42, L. 1997.

23-5-407. Live bingo or keno permit -- fees -- disposition of fees.

(1) A person who has been granted an operator's license may be granted an annual permit by the department to conduct live bingo or keno games on specified premises. The permit expires June 30 of each year.

(2) The permit fee for each premises in which a live bingo or keno game is conducted is \$250.

(3) The department shall retain the permit fee for administrative purposes.

History

History: En. Sec. 37, Ch. 642, L. 1989; amd. Sec. 39, Ch. 647, L. 1991.

23-5-408 Hours of play -- restrictions.

A live bingo or keno game must be closed for play between the hours of 2 a.m. and 8 a.m. of each day. However, in the jurisdiction of a local government where a game is played, the local government may adopt an ordinance allowing play between 2 a.m. and 8 a.m.

History

History: En. Sec. 42, Ch. 642, L. 1989.

23-5-409. Bingo and keno tax -- records -- distribution -- statement and payment.

(1) A licensee who has received a permit to operate bingo or keno games shall pay to the department a tax of 1% of the gross proceeds from the operation of each live bingo and keno game operated on his premises.

(2) A licensee shall keep a record of gross proceeds in the form the department requires. At all times during the business hours of the licensee the records must be available for inspection by the department.

(3) A licensee shall annually complete and deliver to the department a statement showing the total gross proceeds for each live keno or bingo game operated by him and the total amount due as live bingo or keno tax for the preceding year. This statement must contain any other relevant information required by the department.

(4) The department shall forward the tax collected under subsection (3) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed game is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from taxes on live bingo or keno games located in incorporated cities and towns within the county. The tax collected under subsection (3) is statutorily appropriated to the department, as provided in [17-7-502](#), for deposit to the county or municipal treasury.

History

History: En. Sec. 38, Ch. 642, L. 1989; amd. Sec. 40, Ch. 647, L. 1991.

23-5-410. Exemption from certain sections.

A senior citizen center is exempt from [23-5-407](#) and [23-5-409](#) with respect to live bingo games if the center:

(1) limits participation in live bingo games to its members and members' guests;

(2) limits live bingo games to its main premises or place of operation; and

(3) does not operate live bingo games in a predominantly commercial manner.

History

History: En. Sec. 3, Ch. 473, L. 1991.

23-5-412 Card prices and prizes -- exception.

(1) Except as provided in subsection (3):

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

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

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

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

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

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

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

(4) A player may give a keno caller a card with instructions on the card to play that card and its marked numbers for up to the number of successive games that the house allows and that the player has indicated on the card, upon payment of the price per game times the number of successive games indicated. The player shall remain on the

house premises until the card is played or withdrawn. The caller shall keep the card until the end of the number of games indicated, and the department may by rule provide that at that time the caller shall pay the player any prizes won.

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

History

History: En. 62-716 by Sec. 2, Ch. 294, L. 1974; R.C.M. 1947, 62-716(part); amd. Sec. 1, Ch. 465, L. 1985; amd. Sec. 39, Ch. 642, L. 1989; amd. Sec. 41, Ch. 647, L. 1991; amd. Sec. 12, Ch. 626, L. 1993.

23-5-413. Raffle prizes -- permits -- exceptions.

(1) (a) Except as provided in subsections (1)(b) and (1)(c), a permit must be issued by the board of county commissioners for each raffle conducted within its jurisdiction. The permit must be issued before the raffle may be conducted.

(b) If tickets for a raffle are to be sold in more than one county, a permit must be obtained only in the county where the winners of the raffle are to be determined.

(c) If a raffle is to be conducted by a religious corporation sole or a nonprofit organization, as defined in [23-5-112](#), a county permit is not required.

(2) Except for a religious corporation sole or a nonprofit organization, a person or organization conducting a raffle shall own all prizes to be awarded as part of the raffle before the sale of any tickets.

(3) A person who has conducted a raffle must submit an accounting to the board of county commissioners within 30 days following the completion of the raffle.

(4) The sale of raffle tickets authorized by this part is restricted to events and participants within the geographic confines of the state.

(5) The value of a prize awarded for an individual ticket for a raffle conducted by a person or an organization, other than a religious corporation sole or a nonprofit organization, may not exceed \$5,000. The prize may be in the form of cash, other intangible personal property, tangible personal property, or real property. Prizes may not be combined in any manner to increase the ultimate value of the prize awarded for each ticket.

(6) (a) A religious corporation sole or a nonprofit organization shall comply with the requirements in subsections (3) and (4).

(b) The proceeds from the sale of tickets for a raffle conducted by a religious corporation sole or a nonprofit organization may be used only for charitable purposes or to pay for prizes. Proceeds may not be used for the administrative cost of conducting the raffle.

(c) (i) The value of a prize awarded for an individual ticket for a raffle conducted by a religious corporation sole or a nonprofit organization may equal or exceed \$5,000 if the prize is in the form of:

(A) tangible personal property; or

(B) real property the fair market value of which has been certified in writing by an appraiser licensed under [37-54-201](#).

(ii) If the value of the prize is less than \$5,000, the prize may be in the form of cash, other intangible personal property, tangible personal property, or real property.

History

History: (1)En. 62-716 by Sec. 2, Ch. 294, L. 1974; R.C.M. 1947, 62-716(part); (2)En. Sec. 1, Ch. 510, L. 1981; amd. Sec. 1, Ch. 91, L. 1989; amd. Secs. 40, 73, Ch. 642, L. 1989; amd. Sec. 42, Ch. 647, L. 1991; amd. Sec. 1, Ch. 26, L. 1993; amd. Sec. 1, Ch. 288, L. 1993.

23-5-414. Restrictions on bingo and keno.

In the playing of live bingo or keno, a person who is not physically present on the premises where the game is actually conducted may not be allowed to participate as a player in the game.

History

History: En. 62-717 by Sec. 3, Ch. 294, L. 1974; R.C.M. 1947, 62-717; amd. Secs. 2, 3, Ch. 652, L. 1987; amd. Sec. 41, Ch. 642, L. 1989.

23-5-415 through 23-5-418. Repealed.
Sec. 68, Ch. 642, L. 1989.

23-5-419 and 23-5-420 reserved.

23-5-421. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. 62-719 by Sec. 5, Ch. 294, L. 1974; amd. Sec. 8, Ch. 508, L. 1977; R.C.M. 1947, 62-719.

23-5-422. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. 62-720 by Sec. 6, Ch. 294, L. 1974; amd. Sec. 9, Ch. 508, L. 1977; R.C.M. 1947, 62-720.

23-5-423. Repealed.

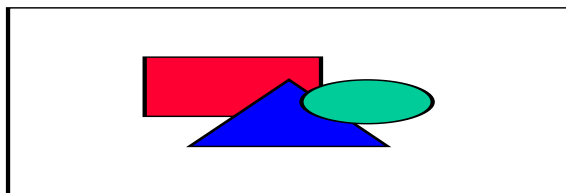
Sec. 68, Ch. 642, L. 1989.

History

History: En. 62-722 by Sec. 8, Ch. 294, L. 1974; R.C.M. 1947, 62-722.

23-5-424. Manufacturer's license for electronic bingo or keno equipment -- license and processing fees.

- (1) A person may not assemble, produce, manufacture, or supply electronic equipment for use in conducting live bingo or keno games in this state without obtaining an annual manufacturer's license from the department.
- (2) The department shall charge an annual license fee of \$1,000 for issuing or renewing a manufacturer's license.
- (3) A manufacturer's license expires June 30 of each year, and the license fee may not be prorated.
- (4) In addition to the license fee provided for in subsection (2), the department may charge a one-time manufacturer's application fee to cover the actual cost of processing the original license. The department shall refund an overpayment or charge and collect an amount sufficient to reimburse the department for underpayment of actual costs.
- (5) The department shall retain for administrative purposes the license and processing fees collected under this section.



History

History: En. Sec. 11, Ch. 647, L. 1991.

23-5-425. Examination and approval of electronic bingo and keno equipment -- fee.

(1) A licensed manufacturer shall submit to the department for examination a prototype of any electronic equipment intended for use in conducting live bingo or keno games before the equipment is used in the state.

(2) Before the equipment is examined, the manufacturer shall pay the anticipated examination costs as determined by the department. The department shall refund an overpayment or charge and collect an amount sufficient to reimburse the department for underpayment of actual costs.

(3) Upon completion of the examination, the department may approve, disapprove, or place a condition upon use of the equipment before it is made available for use in conducting live bingo or keno games.

History

History: En. Sec. 12, Ch. 647, L. 1991.

23-5-426. Electronic live bingo and keno equipment specifications -- rules.

The department shall adopt rules describing electronic live bingo and keno equipment that may be approved under [23-5-425](#). At a minimum, the rules must provide that the equipment use a random selection process to determine the outcome of each game.

History

History: En. Sec. 13, Ch. 647, L. 1991.

23-5-427 through 23-5-430 reserved.

23-5-431. Criminal penalty.

A person who purposely or knowingly violates or who procures, aids, or abets in a violation of this part or any ordinance, resolution, or rule adopted pursuant to this part is guilty of a misdemeanor punishable pursuant to [23-5-161](#).

History

History: En. 62-723 by Sec. 9, Ch. 294, L. 1974; R.C.M. 1947, 62-723; amd. Sec. 43, Ch. 642, L. 1989.

PART 5 SPORTS POOLS

23-5-501. Definitions.

As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Sports pool" means a gambling activity, other than an activity governed under chapter 4 or chapter 5, part 2, of this title, in which a person wagers money for each chance to win money or other items of value based on the outcome of a sports event or series of sports events wherein the competitors in the sports event or series of sports events are natural persons or animals.

(2) "Sports tab" means a folded or banded ticket with a face covered to conceal a combination of two numbers, with each number ranging from zero through nine.

(3) "Sports tab game" means a gambling enterprise conducted on a card to which 100 sports tabs are attached that have 100 different combinations for which consideration in money is paid by the person purchasing each tab. A person may purchase a sports tab from the card for the chance to win money or other items of value on a sports event as provided in [23-5-503](#).

History

History: En. 62-727 by Sec. 1, Ch. 290, L. 1974; R.C.M. 1947, 62-727(part); amd. Sec. 1, Ch. 22, L. 1989; amd. Sec. 43, Ch. 647, L. 1991.

23-5-502. Sports pools and sports tab games authorized -- tax.

(1) Conducting or participating in sports pools and sports tab games as defined and governed in this part is lawful, except that:

(a) sports tab games may be conducted only on premises appropriately licensed to sell alcoholic beverages for consumption on the premises as provided in [23-5-119](#); and

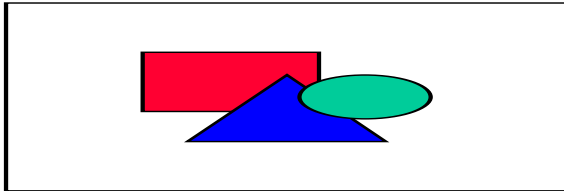
(b) only a licensee of premises that are located in an incorporated city or town with a population of less than 100 or located outside the boundaries of an incorporated city or town and that are appropriately licensed to sell alcoholic beverages for consumption on the premises under [23-5-119](#) may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

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

History

History: En. 62-727.1 by Sec. 12, Ch. 508, L. 1977; R.C.M. 1947, 62-727.1; amd. Sec. 56, Ch. 647, L. 1991; amd. Sec. 2, Ch. 449, L. 1993; amd. Sec. 3, Ch. 13, L. 1997; amd. Sec. 9, Ch. 465, L. 1997.

23-5-503. Rules.



(1) The card or other device used for recording the sports pool or sports tab game must clearly indicate in advance of the sale of any chances the number of chances to be sold in that specific pool, the name of the event or series of events, the consideration to be paid for each chance, and the total amount or percentage to be paid to the winners.

The sports tabs must be purchased from a sports tab game seller licensed under [23-5-513](#).

(2) Each sports tab or chance to participate in a sports pool must be sold for the same amount, which may not exceed \$5, and the total amount paid to all winners of any individual sports pool or sports tab game may not exceed the value of \$500. Chances for a series of events may be purchased all at once prior to the occurrence of the first event.

(3) (a) Except as provided in subsection (3)(b), the winners of any sports pool must receive a 100% payout of the value of the sports pool. The winner of a sports tab game must receive at least 90% of the total cost of the 100 sports tabs. The operator of the sports tab game may retain the remaining money for administration and other expenses.

(b) A nonprofit organization that maintains records and opens the records to inspection upon reasonable demand to verify that the retained portion is used to support charitable activities, scholarships or educational grants, or community service projects may retain up to 50% of the value of a sports pool or sports tab game.

(4) A person or nonprofit organization conducting a sports pool or sports tab game may purchase chances or sports tabs to participate in the sports pool or sports tab game but may not:

(a) retain any portion of the amount wagered in the sports pool or sports tab game, except as provided in subsection (3)(b);

(b) charge a fee for participating in the sports pool or sports tab game; or

(c) use the sports pool or sports tab game in any manner to establish odds or handicaps or to allow betting or booking against the person or nonprofit organization conducting the pool or game.

History

History: En. 62-727 by Sec. 1, Ch. 290, L. 1974; R.C.M. 1947, 62-727(part); amd. Sec. 2, Ch. 22, L. 1989; amd. Sec. 58, Ch. 642, L. 1989; amd. Sec. 45, Ch. 647, L. 1991; amd. Sec. 4, Ch. 13, L. 1997.

23-5-504 through 23-5-508. Repealed.

Sec. 68, Ch. 642, L. 1989.

23-5-509. Penalty.

A person who purposely or knowingly violates or who procures, aids, or abets in a violation of this part is guilty of a misdemeanor punishable pursuant to [23-5-161](#).

History

History: En. 62-733 by Sec. 7, Ch. 290, L. 1974; R.C.M. 1947, 62-733; amd. Sec. 59, Ch. 642, L. 1989.

23-5-510. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. 62-735 by Sec. 9, Ch. 290, L. 1974; amd. Sec. 16, Ch. 508, L. 1977; R.C.M. 1947, 62-735.

23-5-511. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. 62-734 by Sec. 8, Ch. 290, L. 1974; R.C.M. 1947, 62-734.

23-5-512. Sports pool design -- department rules.

(1) A sports pool must be designed to ensure that:

- (a) there is at least one winner from among the participants in the pool; and
- (b) each participant has an equal chance to win the pool.

(2) Competitors in a sports event or series of sports events must be randomly assigned to each participant in the sports pool.

(3) The department shall by rule describe the types of sports pools authorized by this part. Variations in the authorized sports pools must be submitted to the department for review and approval before they are made available for public play.

History

History: En. Sec. 44, Ch. 647, L. 1991.

23-5-513. Sports tab game seller's license -- fees.

(1) It is a misdemeanor for a person to sell sports tab games without first obtaining a sports tab game seller's license from the department.

(2) The department shall charge an annual license fee of \$100 for issuing or renewing a license.

(3) A license expires on June 30 of each year, and the license fee may not be prorated.

(4) The department may charge an additional, one-time license application processing fee to cover the actual cost of processing the original license. The department shall refund any amount of the application processing fee not needed to reimburse the department for actual costs or shall collect an amount sufficient to reimburse the department for actual costs not completely covered by the initial fee charged.

(5) The department shall retain for administrative purposes the license and application processing fees collected under this section.

History

History: En. Sec. 2, Ch. 13, L. 1997.

PART 6 VIDEO GAMING MACHINE

23-5-601. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. Sec. 1, Ch. 720, L. 1985; amd. Sec. 36, Ch. 83, L. 1989.

23-5-602 Definitions.

As used in this part, the following definitions apply:

- (1) "Associated equipment" means all proprietary devices, machines, or parts used in the manufacture or maintenance of a video gambling machine, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, metering devices, and cabinetry.
- (2) "Bingo machine" means an electronic video gambling machine that, upon insertion of cash, is available to play bingo as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.
- (3) "Draw poker machine" means an electronic video gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.
- (4) "Gross income" means money put into a video gambling machine minus credits paid out in cash.
- (5) "Keno machine" means an electronic video gambling machine that, upon insertion of cash, is available to play keno as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

History

History: En. Sec. 2, Ch. 720, L. 1985; amd. Sec. 1, Ch. 154, L. 1987; amd. Sec. 1, Ch. 317, L. 1987; amd. Sec. 1, Ch. 603, L. 1987; amd. Sec. 44, Ch. 642, L. 1989; amd. Sec. 54, Ch. 647, L. 1991; amd. Sec. 17, Ch. 626, L. 1993.

23-5-603. Video gambling machines -- possession -- play -- restriction.

- (1) A licensed operator may make available for public play only the number of approved video gambling machines specifically authorized by this part.
- (2) The video gambling machines specifically authorized by this part are bingo, keno, and draw poker machines. Only the number of approved machines for which permits have been granted under [23-5-612](#) may be made available for play by the public on the premises of a licensed operator. The department shall adopt rules allowing a video gambling machine that needs repair to be temporarily replaced while it is being repaired with a video gambling machine that is approved under the permit provisions of this part. A fee may not be charged for the replacement machine.
- (3) Machines on premises appropriately licensed to sell alcoholic beverages for on-premises consumption, as provided in [23-5-119](#), must be placed:
 - (a) in a room, area, or other part of the premises in which alcoholic beverages are sold or consumed; and
 - (b) within control of the operator for the purpose of preventing access to the machines by persons under 18 years of age.

History

History: En. Sec. 9, Ch. 720, L. 1985; amd. Sec. 2, Ch. 603, L. 1987; amd. Sec. 4, Ch. 652, L. 1987; amd. Sec. 45, Ch. 642, L. 1989; amd. Sec. 46, Ch. 647, L. 1991; amd. Sec. 10, Ch. 465, L. 1997.

23-5-604 reserved.

23-5-605. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. Sec. 7, Ch. 720, L. 1985; amd. Sec. 1, Ch. 211, L. 1987; amd. Sec. 3, Ch. 603, L. 1987.

23-5-606. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. Sec. 3, Ch. 720, L. 1985; amd. Sec. 2, Ch. 211, L. 1987; amd. Sec. 1, Ch. 640, L. 1987; amd. Sec. 1, Ch. 344, L. 1989.

23-5-607. Expected payback -- verification.

The department shall prescribe the expected payback value of one credit awarded to be at least 80% of the value of one credit played. Each video gambling machine must have an electronic accounting device that the department may use to verify the winning percentage.

History

History: En. Sec. 4, Ch. 720, L. 1985; amd. Sec. 1, Ch. 163, L. 1987; amd. Sec. 4, Ch. 603, L. 1987; amd. Sec. 54, Ch. 642, L. 1989.

23-5-608. Limitation on amount of money played and value of prizes -- payment of credits in cash.

(1) A video gambling machine may not allow more than \$2 to be played on a game or award free games or credits in excess of the following amounts:

(a) \$800 a game for a video draw poker machine; and

(b) \$800 a game for a video keno or bingo machine.

(2) A licensee shall pay in cash all credits owed to a player as shown on a valid ticket voucher.

History

History: En. Sec. 5, Ch. 720, L. 1985; amd. Sec. 3, Ch. 211, L. 1987; amd. Sec. 5, Ch. 603, L. 1987; amd. Sec. 53, Ch. 642, L. 1989; amd. Sec. 1, Ch. 227, L. 1995.

23-5-609. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. Sec. 8, Ch. 603, L. 1987; amd. Sec. 2, Ch. 344, L. 1989.

23-5-610. Video gambling machine gross income tax -- records -- distribution -- quarterly statement and payment.

(1) A licensed operator issued a permit under this part shall pay to the department a video gambling machine tax of 15% of the gross income from each video gambling machine licensed under this part. A licensed operator may deduct from the gross income amounts equal to amounts stolen from machines if the amounts stolen are not repaid by insurance or under a court order, if a law enforcement agency investigated the theft, and if the theft is the result of either unauthorized entry and physical removal of the money from the machines or of machine tampering and the amounts stolen are documented.

(2) A licensed operator issued a permit under this part shall keep a record of the gross income from each machine in the form the department requires. The records must at all times during the business hours of the licensee be subject

to inspection by the department.

(3) A licensed operator issued a permit under this part shall, within 15 days after the end of each quarter, complete and deliver to the department a statement showing the total gross income from each video gambling machine licensed to the operator, together with the total amount due the state as video gambling machine gross income tax for the preceding quarter. The statement must contain other relevant information that the department requires.

(4) (a) The department shall, in accordance with the provisions of [15-1-501](#), forward one-third of the tax collected under subsection (3) to the general fund.

(b) The department shall, in accordance with the provisions of [15-1-501](#), forward the remaining two-thirds of the tax collected under subsection (3) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county or municipal treasury. Counties are not entitled to proceeds from taxes on income from video gambling machines located in incorporated cities and towns. The two-thirds local government portion of tax collected under subsection (3) is statutorily appropriated to the department as provided in [17-7-502](#) for deposit to the county or municipal treasury.

History

History: En. Sec. 9, Ch. 603, L. 1987; amd. Sec. 52, Ch. 642, L. 1989; amd. Sec. 47, Ch. 647, L. 1991; amd. Sec. 29, Ch. 15, Sp. L. July 1992; amd. Sec. 16, Ch. 398, L. 1993; amd. Sec. 31, Ch. 455, L. 1993; amd. Sec. 40, Ch. 18, L. 1995.

23-5-611. Machine permit qualifications -- limitations.

(1) (a) A person who has been granted an operator's license under [23-5-177](#) and who holds an appropriate license to sell alcoholic beverages for consumption on the premises as provided in [23-5-119](#) may be granted a permit for the placement of video gambling machines on the person's premises.

(b) If video keno or bingo gambling machines were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed to sell alcoholic beverages for consumption on the premises or operated for the principal purpose of gaming and there is an operator's license for the premises under [23-5-177](#), a permit for the same number of video keno or bingo gambling machines as were operated on the premises on that date may be granted to the person who held the permit for such machines on those premises on that date.

(c) A person who legally operated an establishment on January 15, 1989, for the principal purpose of gaming and has been granted an operator's license under [23-5-177](#) may be granted a permit for the placement of bingo and keno machines on the person's premises.

(2) An applicant for a permit shall disclose on the application form to the department any information required by the department consistent with the provisions of [23-5-176](#).

(3) A licensee may not have on the premises or make available for play on the premises more than 20 machines of any combination.

History

History: En. Sec. 8, Ch. 720, L. 1985; amd. Sec. 4, Ch. 211, L. 1987; amd. Sec. 46, Ch. 642, L. 1989; amd. Sec. 48, Ch. 647, L. 1991; amd. Sec. 11, Ch. 465, L. 1997.

23-5-612. Machine permits -- fee.

(1) The department, upon payment of the fee provided in subsection (2) and in conformance with rules adopted under this part, shall issue to the operator an annual permit for an approved video gambling machine.

(2) (a) The department shall charge an annual permit fee of \$200 for each video gambling machine permit. The fee must be prorated on a quarterly basis but may not be prorated to allow a permit to expire before June 30. The department may not grant a refund if the video gambling machine ceases operation before the permit expires.

(b) If the person holding the gambling operator's license for the premises in which the machine is located changes during the first quarter of the permit year and the new operator has received an operator's license and if a machine transfer processing fee of \$25 per machine is paid to the department, the permit remains valid for the remainder of the permit year.

(3) The department shall deposit 50% of the total permit fee collected under subsection (2)(a) and 100% of the machine transfer processing fee collected under subsection (2)(b) in the state special revenue fund for purposes of administering this part and for other purposes provided by law. The balance of the fee collected under subsection (2)(a) must be returned on a quarterly basis to the local government jurisdiction in which the gambling machine is located. The local government portion of the fee is statutorily appropriated to the department, as provided in [17-7-](#)

[502](#), for deposit in the local government treasury.

History

History: En. Secs. 10, 12, Ch. 720, L. 1985; amd. Sec. 2, Ch. 154, L. 1987; amd. Sec. 6, Ch. 603, L. 1987; amd. Sec. 1, Ch. 496, L. 1989; amd. Secs. 47, 73, Ch. 642, L. 1989; amd. Sec. 49, Ch. 647, L. 1991; amd. Sec. 1, Ch. 210, L. 1993; amd. Sec. 2, Ch. 354, L. 1997.

23-5-613. Violations.

Unless otherwise provided in this part, a person who purposely or knowingly violates or procures, aids, or abets a violation of this part or an ordinance, resolution, or rule adopted under this part is guilty of a misdemeanor punishable under [23-5-161](#).

History

History: En. Sec. 11, Ch. 720, L. 1985; amd. Sec. 5, Ch. 211, L. 1987; amd. Sec. 56, Ch. 642, L. 1989.

23-5-614. Sale of video gambling machines.

(1) A licensed operator who is not licensed as a manufacturer, distributor, or route operator may sell up to 20 video gambling machines in a calendar year if the operator:

(a) had obtained permits for the machines and legally operated them prior to the sale; and

(b) sells the machines to another licensed operator or to a licensed manufacturer, distributor, or route operator.

(2) A lienholder who acquires title to video gambling machines through a foreclosure action involving a licensed manufacturer, distributor, route operator, or operator may sell the machines to a licensed manufacturer, distributor, route operator, or operator.

(3) A licensed manufacturer or distributor may sell video gambling machines and associated equipment approved by the department for delivery to any jurisdiction outside of this state if the sale and transportation of the machines or equipment complies with all applicable local, tribal, state, and federal laws and regulations. Prior to the date of the sale, the seller shall notify the department of the terms of the sale, the identities of the seller, purchaser, and person to whom the shipment will be made, the type and number of machines or equipment to be sold, and the method of shipment and provide the department with the approval of the jurisdiction in which the machines or equipment will be received. A person convicted of purposely or knowingly violating this subsection shall be punished as provided in [23-5-162](#).

History

History: En. Sec. 19, Ch. 626, L. 1993; amd. Sec. 3, Ch. 354, L. 1997.

23-5-615. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. Sec. 6, Ch. 720, L. 1985; amd. Sec. 7, Ch. 603, L. 1987.

23-5-616. Removal of machine from public access.

If a machine fails to meet the specifications and requirements of this part or any rule of the department which specification or requirement existed at the time the machine was approved at any time after its initial permit has been issued, the operator shall immediately remove the machine from public access until it meets all requirements.

History

History: En. Sec. 6, Ch. 211, L. 1987; amd. Sec. 50, Ch. 642, L. 1989.

23-5-617. Repealed.

Sec. 68, Ch. 642, L. 1989.

History: En. Sec. 7, Ch. 211, L. 1987.

23-5-618. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. Sec. 8, Ch. 211, L. 1987.

23-5-619 reserved.

23-5-620. Video gambling machines -- hours of play.

A video gambling machine may not be played between the hours of 2 a.m. and 8 a.m. each day. However, in the jurisdiction of a local government where a game is played, the local government may adopt an ordinance allowing play between 2 a.m. and 8 a.m.

History

History: En. Sec. 55, Ch. 642, L. 1989.

23-5-621. Video gambling machine specifications -- rules.

The department shall adopt rules describing the video gambling machines authorized by this part and stating the specifications for video gambling machines authorized by this part. The specifications in the rules must substantially follow the specifications contained in 23-5-606 and 23-5-609 as those sections read on September 30, 1989. The department shall adopt rules allowing video gambling machines to be imported into this state and used for the purposes of trade shows, exhibitions, and similar activities.

History

History: En. Sec. 49, Ch. 642, L. 1989.

23-5-622. Tampering with video gambling machine -- penalty.

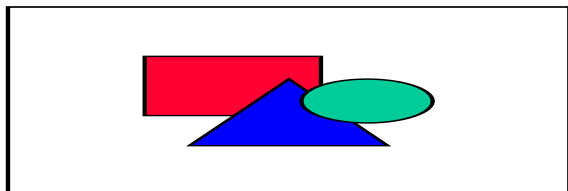
(1) A person commits the offense of tampering with a video gambling machine if he purposely or knowingly manipulates or attempts or conspires to manipulate the outcome or payoff of a video gambling machine by physical tampering or other interference with the proper functioning of the machine.

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

History

History: En. Sec. 57, Ch. 642, L. 1989.

23-5-623 and 23-5-624 reserved.



23-5-625. Video gambling machine manufacturer -- license -- fees -- restrictions.

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

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

(3) Except as provided in subsection (6), the department may charge the applicant an additional, one-time video

gambling machine manufacturer's license application processing fee. The application processing fee may not exceed the department's actual costs for processing an application.

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

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

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

History

History: En. Sec. 2, Ch. 317, L. 1987; amd. Sec. 51, Ch. 642, L. 1989; amd. Sec. 50, Ch. 647, L. 1991; amd. Sec. 18, Ch. 626, L. 1993.

23-5-626. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. Sec. 3, Ch. 317, L. 1987.

23-5-627. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. Sec. 4, Ch. 317, L. 1987.

23-5-628. Inspection of premises, records, and devices.

The department or a local law enforcement official may inspect at any time during normal business hours a premises, as defined in [23-5-112](#), or a facility where gambling devices are manufactured or distributed. The inspection may include the examination of records, equipment, and proceeds related to the operation of a gambling activity or the manufacture or distribution of a gambling device.

History

History: En. Sec. 10, Ch. 647, L. 1991.

23-5-629. Permit for premises within 150 feet of another premises.

(1) (a) A licensee may not be granted a permit for video gambling machines allowed on a premises under [23-5-611](#) if, at the time of application for the permit, the licensee's premises are within 150 feet of, or have an external structural connection not amounting to a common internal wall, as that term is used in [23-5-117](#), to, a premises that already has a permit for video gambling machines allowed on a premises under [23-5-611](#) and if the two premises have one or more common owners. A measurement of the distance between two premises must be taken between the nearest exterior wall of each premises.

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

(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, partners, 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 related 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 individual owners, by trust or otherwise, for the ownership and operation of gaming equipment if the agreement has other 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 owners, 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 involving 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 of the 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 nephews.
- (f) "Investor" means a person who:
 - (i) advances or pledges to advance funds with the expectation of a specified or unspecified return;
 - (ii) guarantees a loan, except a loan guaranteed by a route operator who would not otherwise be considered a common owner; or
 - (iii) has an option to participate in the premises.

History

History: En. Sec. 1, Ch. 480, L. 1995.

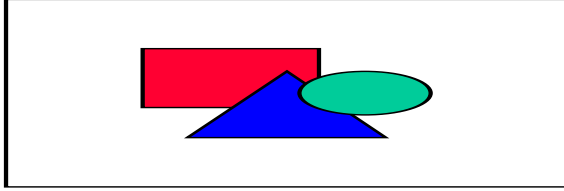
23-5-630 reserved.

23-5-631. Examination and approval of new video gambling machines and associated equipment -- fee.

- (1) The department shall examine and may approve a new video gambling machine or associated equipment or a modification to an approved machine or associated equipment that is manufactured, sold, or distributed for use in the state before the video gambling machine or associated equipment is sold, played, or used. A licensed manufacturer or distributor may bring a video gambling machine or associated equipment authorized by this chapter into the state for research and development on behalf of a licensed manufacturer prior to submission of the machine or equipment to the department for approval.
- (2) A video gambling machine or associated equipment or a modification to an approved machine or associated equipment may not be examined or approved by the department until the video gambling machine manufacturer is licensed as required in [23-5-625](#).
- (3) All video gambling machines or associated equipment approved by the department of commerce prior to October 1, 1989, must be considered approved under this part.
- (4) The department shall require the manufacturer seeking the examination and approval of a new video gambling machine or associated equipment or a modification to an approved machine or associated equipment to pay the anticipated actual costs of the examination in advance and, after the completion of the examination, shall refund overpayments or charge and collect amounts sufficient to reimburse the department for underpayments of actual costs.
- (5) Payments received under subsection (4) are statutorily appropriated to the department, as provided in [17-7-502](#), to defray the costs of examining and approving video gambling machines and associated equipment and modifications to approved machines and associated equipment and to issue refunds for overpayments.
- (6) The department may inspect and test and approve, disapprove, or place a condition upon a video gambling

machine or associated equipment or a modification to an approved machine or associated equipment prior to its distribution and placement for play by the public. A manufacturer, distributor, or route operator may not supply a video gambling machine or associated equipment to a manufacturer, distributor, route operator, or operator unless the machine or equipment has been approved by the department.

History



History: En. Sec. 6, Ch. 317, L. 1987; amd. Sec. 48, Ch. 642, L. 1989; amd. Sec. 51, Ch. 647, L. 1991; amd. Sec. 17, Ch. 398, L. 1993; amd. Sec. 20, Ch. 626, L. 1993; amd. Sec. 4, Ch. 354, L. 1997.

23-5-632 through 23-5-634 reserved.

23-5-635. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. Sec. 5, Ch. 317, L. 1987.

23-5-636. Repealed.

Sec. 68, Ch. 642, L. 1989.

History

History: En. Sec. 7, Ch. 317, L. 1987.

23-5-637 through 23-5-645 reserved.

3-5-646. Terminated.

Sec. 39, Ch. 15, Sp. L. July 1992.

History

History: En. Sec. 28, Ch. 15, Sp. L. July 1992; amd. Sec. 32, Ch. 455, L. 1993.

PART 7 CASINO NIGHTS

23-5-701. Definitions.

Unless the context requires otherwise, for purposes of this part, "casino night" means a fundraising event during which wagers may be made in gambling activities authorized in [23-5-702](#) through the use of imitation money.

History

History: En. Sec. 14, Ch. 647, L. 1991.

23-5-702. Casino nights authorized.

- (1) Nonprofit organizations may conduct or participate in a casino night.
- (2) The following gambling activities may be conducted during a casino night:
 - (a) live card games authorized under [23-5-311](#);

- (b) live bingo and keno games; and
- (c) raffles.

History

History: En. Sec. 15, Ch. 647, L. 1991.

23-5-703 and 23-5-704 reserved.

23-5-705. Application for permit.

- (1) A nonprofit organization may apply to the department for a casino night permit on a form prescribed and furnished by the department. The application must be accompanied by a fee of \$25.
- (2) The application must include:
 - (a) the name and address of the applicant;
 - (b) the name and address of the applicant's officers;
 - (c) the location, date, and time at which the applicant will conduct the casino night;
 - (d) sufficient evidence concerning the structure and operation of the organization to enable the department to determine whether the applicant is a nonprofit organization; and
 - (e) other relevant information requested by the department.

History

History: En. Sec. 16, Ch. 647, L. 1991.

23-5-706. Issuance of permit -- disposition of fee.

- (1) After review of an application submitted under [23-5-705](#), the department may issue to the applicant a casino night permit. Only one permit may be issued to the applicant each year. The permit is valid for only one location and is not assignable or transferable.
- (2) The department shall retain the fee provided for in [23-5-705](#) for administrative purposes.

History

History: En. Sec. 17, Ch. 647, L. 1991.

23-5-707 through 23-5-709 reserved.

23-5-710. Requirements for conducting casino nights.

A nonprofit organization that has obtained a permit under [23-5-706](#) shall conduct a casino night in compliance with the following conditions:

- (1) The casino night may not last more than 12 consecutive hours.
- (2) The casino night must be managed and operated only by members of the nonprofit organization that was issued the permit under [23-5-706](#). The members may not be compensated for their services.
- (3) Only merchandise may be awarded as prizes.
- (4) Proceeds derived from the casino night, after payment of reasonable administrative expenses, may be used only for a civic, charitable, or educational purpose, and administrative expenses may not exceed 50% of the proceeds.

History

History: En. Sec. 18, Ch. 647, L. 1991.

23-5-711. Nonapplicability of certain gambling laws.

The provisions of parts 3 and 4 of this chapter, except [23-5-311](#), do not apply to live card games, live bingo or keno games, or raffles conducted during a casino night.

History

History: En. Sec. 19, Ch. 647, L. 1991.

23-5-712 through 23-5-714 reserved.

23-5-715. Rules.

The department shall adopt rules to administer this part. At a minimum, the rules must address application procedures and play of the games during a casino night.

History

History: En. Sec. 20, Ch. 647, L. 1991.

PART 8 FANTASY SPORTS LEAGUES

23-5-801. Fantasy sports leagues defined.

As used in this part, a "fantasy sports league" means a gambling activity conducted in the following manner:

- (1) A fantasy sports league consists of a limited number of persons or groups of persons who pay an entrance fee for membership in the league. The entrance fee may include an administrative fee.
- (2) Each league member creates a fictitious team composed of athletes from a given professional sport, such as baseball, basketball, or football. Player selection is conducted through random drawings or a bidding process.
- (3) After the initial teams are selected, interim replacement of players may occur by trade or purchase. A specific fee, which may not exceed the total entrance fee, is charged for each transaction.
- (4) A method, as defined by league rules, is devised to permit each team to compete against other teams in the league. Points are awarded to a team according to the performance of individual players or teams or both during a designated time period.
- (5) A member may be eligible to receive a payout based on the number of points accumulated. Payouts, which may be in the form of cash or prizes, are awarded according to league rules.
- (6) Rules governing the conduct of the fantasy sports league must be provided in writing to each member.

History

History: En. Sec. 21, Ch. 647, L. 1991.

23-5-802. Fantasy sports leagues authorized.

It is lawful to conduct or participate in a fantasy sports league.

History

History: En. Sec. 22, Ch. 647, L. 1991.

23-5-803 and 23-5-804 reserved.

23-5-805. Payouts -- administrative fees charged by commercial establishments.

- (1) The total value of payouts to all league members must equal the amount collected for entrance, administrative, and transactions fees, minus payment for administrative expenses.
- (2) If a commercial establishment charges an administrative fee for conducting a fantasy sports league, the fee for each participant may not be more than 15% of the amount charged as a participant's entrance fee.

History

History: En. Sec. 23, Ch. 647, L. 1991.

23-5-806 Sports betting prohibited -- applicability.

Sections [23-5-801](#), [23-5-802](#), and [23-5-805](#) do not:

- (1) authorize betting or wagering on the outcome of an individual sports event; or
- (2) apply to gambling activities governed under chapter 4 or chapter 5, part 2 or 5, of this title.

History

History: En. Sec. 24, Ch. 647, L. 1991.

23-5-807 through 23-5-809 reserved.

23-5-810. Violations.

A person who purposely or knowingly violates or procures, aids, or abets in a violation of this part is guilty of a misdemeanor punishable under [23-5-161](#).

History

History: En. Sec. 25, Ch. 647, L. 1991.

CHAPTER 6 AMUSEMENT GAMES

PART 1 GENERAL

23-6-101. Definitions.

Unless the context requires otherwise, the following definitions apply in this part:

- (1) "Arcade" means a commercial establishment whose primary purpose is to make amusement games available for public play.
- (2) "Concessionaire" means a person who owns one or more amusement games and who enters into an agreement with an operator, as defined in subsection (5)(a), to conduct games. A concessionaire may also be an operator.
- (3) "Crane game" means an amusement game activated by the insertion of a coin or token by which the player uses one or more buttons, control sticks, or similar means of control or a combination of those means of control to position a mechanical or electromechanical claw or other retrieval device over a prize and attempts to retrieve it.
- (4) "Nonprofit organization" means a nonprofit corporation or a nonprofit charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, or service organization, established for a purpose other than conducting amusement games.
- (5) "Operator" means a person who:
 - (a) enters into an agreement with a county fair commission, board of directors of a fair district, joint fair and civic center commission, business, or an association of businesses, such as a shopping center or downtown area, to provide amusement games; or
 - (b) makes an amusement game available for public play on premises owned by the operator or on premises owned by another person.
- (6) "Prize" means:
 - (a) tangible personal property; or
 - (b) nontransferable tokens or tickets that may be accumulated and redeemed for tangible personal property.

History

History: En. Sec. 1, Ch. 523, L. 1991; amd. Sec. 1, Ch. 327, L. 1993.

23-6-102. Requirements for games.

An operator, concessionaire, nonprofit organization, or arcade may provide amusement games to the public under the following conditions:

- (1) The sale of a right to participate, the determination of winners, and the distribution of prizes all occur in the

presence of all players.

(2) The appropriate permit to operate the game has been obtained as provided for in [23-6-103](#).

(3) The player pays cash for the right to play the game.

(4) Only a prize may be awarded, and a prize may not be repurchased from a player. Prizes, as defined in [23-6-101\(6\)\(a\)](#), and tangible personal property that may be obtained through redemption of tokens or tickets must be displayed.

(5) (a) If tangible personal property, rather than tokens or tickets, is awarded following play of the amusement game, the wholesale value of the property may not exceed \$50.

(b) If tokens or tickets are awarded following play of the amusement game:

(i) the value of the tokens or tickets for redemption purposes may not exceed 5 cents;

(ii) the maximum number of tokens or tickets awarded after a single play of the amusement game may not exceed the value of 10 times the total amount paid by all participants to play the amusement game; and

(iii) any tangible personal property for which tokens or tickets are redeemed may exceed a wholesale value of \$50.

(6) The system for awarding prizes does not require forfeiture of a previously won prize unless the prize is traded for a prize of equal or greater value.

(7) Concealed numbers or conversion charts are not used in conducting the game.

(8) The game is not designed or adapted with a control device to permit manipulation of the game to control the ability of a player to win or to predetermine who the winner will be. A crane game may not contain a variable resistor or any turn screw, knob, potentiometer, or similar device that may be used to alter the closing strength of the game's claws or retrieval device.

(9) The object of the game is attainable and possible to perform, under the stated game rules, from the playing position of the player.

(10) The game is conducted in a fair and honest manner and does not constitute a fraud upon the players.

History

History: En. Sec. 2, Ch. 523, L. 1991; amd. Sec. 2, Ch. 327, L. 1993.

23-6-103. Permits.

(1) Before making an amusement game available for public play, an operator, concessionaire, nonprofit organization, or arcade shall obtain the appropriate permit, as provided in subsections (2) through (4), from the board of county commissioners of the county in which the game is to be made available for public play. The board of county commissioners may not charge a fee for issuing a permit under this section.

(2) The board of county commissioners may issue a permit to an operator, as defined in [23-6-101\(5\)\(a\)](#), a concessionaire, or a nonprofit organization. Each permit entitles the permittee to operate amusement games in the county for a maximum of 14 consecutive days.

(3) The board of county commissioners may issue an operator, as defined in [23-6-101\(5\)\(b\)](#), an annual permit for each amusement game to be operated in the county. A permit is effective January 1 through December 31. An operator, as defined in [23-6-101\(5\)\(a\)](#), a concessionaire, a nonprofit organization, or an arcade that makes an amusement game available for public play need not obtain a permit under this subsection.

(4) The board of county commissioners may issue an annual permit to an arcade. A permit is effective January 1 through December 31.

History

History: En. Sec. 3, Ch. 523, L. 1991.

23-6-104. Amusement games allowed.

(1) Crane games, as defined in [23-6-101](#), and the games described in subsection (2) may be made available for public play.

(2) (a) Fish pond (duck pond). The player catches a fish or other object floating in a pond of water by using a pole, hand, net, or string. All fish or objects are marked on the bottom, indicating the size of prize the player wins. The player is awarded a prize each time, and the player must be allowed to continue playing until a prize is won.

(b) Hoop or ring toss. The player tosses a hoop or ring over a target that must consist of bottles, pegs, blocks, or prizes. The operator shall specifically advise the player as to the degree that the hoop or ring must go over the target. All hoops of the same color used at an individual stand must be the same size. All targets used at an individual booth

must be the same size, or the operator shall advise the player by posting signs or using color codes denoting the different sizes.

(c) Dart games. The target area for all dart games must be of a material capable of being penetrated and of retaining a metal tip dart. The target area must be in the rear of the stand and must be at least 3 feet but not more than 15 feet from the foul line. A target must be stationary at all times.

(i) Balloon (poparoo) (balloon smash). The targets are inflated balloons. The player throws one or more darts to burst a predetermined number of balloons. If the predetermined number of balloons are burst by the darts, the player receives the prize indicated.

(ii) Dart throw. The targets are various sizes and shapes located on the target area. The player throws darts individually at the target. A dart must stick in a predetermined target to win the prize as designated.

(iii) Tic tac toe dart. The target is a tic tac toe board located in the target area. The player throws darts at the target and wins a designated prize when the thrown darts line up in a row in the target. The darts may line up vertically, horizontally, or diagonally to win.

(iv) Add-um-up darts. The target consists of numbered squares located in the target area. Prizes are awarded based on the total score obtained by the player by throwing and sticking the darts in the numbered squares. A dart that sticks on a line must be thrown again. The player may add up the score of the darts thrown.

(d) Ball tosses. In all ball toss games, the balls used at a specific stand must be of the same weight and size. Targets must be of the same weight and size, or the operator shall color code the targets and advise the player of the difference in targets by posting a sign or providing a duplicate of the target showing the limitations or restrictions. The sign or duplicate target must be readily visible to the player.

(i) Milk bottle toss. The player tosses or throws balls at simulated milk bottles. The player wins by either tipping over or knocking bottles off the raised platform as designated by the operator. The bottles may be constructed of wood, metal, or plastic or a combination of the three. Operators may vary the number of bottles and balls used in each game. Floating or loose weights in bottles are not allowed. The weight of individual bottles may not exceed 7 1/2 pounds.

(ii) Milk can (Mexican hat) (cone). The player tosses a ball into the opening of a milk can, into a fiberglass Mexican hat turned upside down, or through a cone to win.

(iii) Football toss (tire toss). The player tosses or throws a football through a stationary tire or hoop to win.

(iv) Basketball toss/throw. The player tosses or throws a basketball through a hoop to win.

(v) Bushel baskets. The player tosses balls into a bushel basket mounted on a stationary backdrop at a fixed angle. The balls must stay in the basket to win. Rim shots are allowed, except the operator may designate the top 6 inches of the basket rim by color and disallow balls striking this area as winning tosses.

(vi) Cat-ball-toss (star/diamond toss). The player tosses balls into a simulated cat's mouth or a round, diamond, or star-shaped hole to win.

(vii) Ping pong toss. The player tosses ping pong balls into dishes, saucers, cups, or ashtrays floating in water. A predetermined number of balls must remain in the dishes, saucers, cups, or ashtrays for the player to win. The dishes, saucers, cups, or ashtrays must have water covering the bottom of the surface that is facing up.

(viii) Fishbowl game. The player tosses ping pong balls into a water-filled fish bowl to win.

(ix) Volleyball toss (soccer ball). The player tosses a volley or soccer ball into a keg-type container mounted on a stationary backdrop at a fixed angle. The ball must stay in the keg to win a prize. Rim shots are authorized as stated in subsection (2)(d)(v) for bushel baskets.

(x) Goblet ball (whiffle ball). The player tosses a whiffle ball into a target area of glass or plastic goblets. Located in the target area are colored goblets that determine the type of prize the player wins. At least 33% of the goblets in the target area must be winners. The ball must stay in the goblet to win a prize.

(xi) Break the plate/bottle. The player tosses or throws a ball at a plate, phonograph record, or bottle. The type of prize won is determined by the number of targets broken by the player.

(xii) Punk rack. The targets for this game are rows of dolls or cats on a ledge at the rear of the stand. The dolls or cats must be filled with sawdust, styrofoam, cotton, or other like material that provides a firm base for the ball to strike. The hair protruding from the side of the dolls or cats may not exceed 3 inches. The prize is determined by how many dolls or cats the player knocks over or off the ledge, as posted by the operator.

(xiii) Teeth game. The target consists of a large face with wooden teeth. The prize is determined by how many teeth the player knocks down by throwing a ball.

(xiv) Toilet game (doniker). To win, the player tosses or throws a ball or other object through a toilet seat located at the rear of the stand.

(xv) Coke roll. The player rolls a ball down an alley with the object of knocking over two coke bottles standing at the end of the alley. The player must tip over both bottles to win. Bottles must be placed on predetermined spots

painted on the surface of the alley.

(xvi) Rolldown. The player rolls balls down an alley with the object of putting the balls in numbered slots at the end of the alley. The scores represented by the balls in each numbered slot are added up at the conclusion of the game. Scores above or below a predetermined score win. The alley surface must be smooth and free from defects at all times.

(xvii) Fascination (I got it). Fascination is a group game that involves competition among the players. The target area consists of 25 holes, and the player tosses or rolls a ball into one of the holes. The object of the game is to get five balls in a row either vertically, horizontally, or diagonally. The first player to accomplish this is the winner. Prize size is determined by the number of players participating in each game.

(xviii) Batter-up. The player uses a whiffle ball bat to swing and strike whiffle balls that are pitched at medium speed from a pitching machine. The player wins when the player hits a ball into the home run shelf. The home run shelf is located at the back of the batting cage approximately 15 feet from the player.

(xix) Sky bowling. Two bowling pins are set on predetermined painted spots on a shelf. A ball is attached to a chain suspended from a stationary support at least 6 inches to the right or left of the bowling pins. The object is to swing the ball, miss the pins with the ball as it goes forward, and knock the pins over as the ball returns.

(xx) Clown rolldown. A ball is tossed through the open mouth of a moving clown or animal head. The ball then rolls down a chute to numbered slots at the rear of the clown or animal head. The scores represented by the balls in each numbered slot are added up at the conclusion of the game. Prizes are awarded on the points achieved.

(xxi) Skee ball. The player rolls a ball up the mechanical bowling alley into targets. A computer adds up the scores, and the predetermined scores win.

(xxii) Speedball radar game. The player gets four balls and throws three balls through radar to establish speeds and to estimate at what speed the fourth ball will pass through the radar. The player wins a prize if the player accurately estimates the speed of the fourth ball. The radar must be mounted and stationary.

(e) Shooting games. These games are conducted by the player using a weapon of some type to shoot at a target in the rear of the stand. The safety requirements of local city or county ordinances must be observed by the operator and player. The target may be stationary or mobile.

(i) Short range (shooting gallery). In this game, the player is given four rounds to shoot at a spot target 1/4 inch or less in diameter. The player wins when the spot target is completely shot out, or the player is given five rounds to shoot one round each at five triangular, round, or 1/2-inch square targets. The prize is determined by the number of targets struck by the player, or the player is given five rounds to shoot one round each at five triangular, round, or 1/2-inch square targets. Within each target is a bull's eye. The player must hit the bull's eye without touching the outer surface of the target. The prize is determined by the number of bull's eyes correctly hit.

(ii) Shoot-out-the-star (machine gun). The player, using an automatic air pellet gun, is given 100 pellets to shoot at a star-shaped target. The player must shoot out all of the target to win. The star cannot be more than 1 1/4 inches from point-to-point.

(iii) Water racer. This group game involves a competition, with the player winning a prize based on the number of players competing. The player, using a water pistol, shoots the water into a target. The water that strikes the target causes a balloon to inflate or advances an object to ring a bell. The first player who bursts the balloon or rings the bell is the winner.

(iv) Rapid fire. This group game involves competition similar to the water racer game described in subsection

(2)(e)(iii). The player uses an electronic pistol to shoot at a target. Hits on the target give the player a score. The first player to reach a predetermined score is the winner.

(v) Cork gallery. The player uses a cork gun or similar device to propel objects, including but not limited to corks, suction cup darts, or styrofoam balls, to shoot at targets located on a shelf or at a bull's eye target. The player must hit the bull's eye or knock the target over or off the shelf to win a prize. The prize is determined by the target knocked over or off the shelf, by the number of targets knocked over or off the shelf, or by the player accomplishing other tasks, as stated in the posted rules. When suction cup darts or other darts are used and fail to stay on or in the target, the player must shoot the dart again. The base of each target must be uniform, front and rear.

(vi) Boomball. The player uses a cannon with compressed air to propel balls into a target area. The targets have varied point value. If the ball remains in the target, a computer adds up the score. Prizes are awarded based on the points achieved.

(f) Coin pitchers.

(i) Spot pitch (lucky strike). The player pitches a coin at colored spots located on a table in the center of the stand. The coin must touch or stay inside of a spot to win a prize.

(ii) Plate pitch. The player pitches a coin onto a glass plate to win a prize as designated.

(iii) Glass pitch (bowl). The player pitches a coin into or onto dishes or glasses. If the coin remains in a top target

glass item, then the player wins that item.

(g) Cakewalk. The players walk on a predetermined route with designated spots, and when the operator stops the walk, the player on a predetermined spot wins a prize.

(h) Miscellaneous games.

(i) Skill chute (bulldozer) (penny fall).

(A) The games in each of the following sentences require the player to insert a coin or token into a chute, aiming the coin or token so that it will fall in front of a continuous sweeper (bulldozer) operating on a playing field containing additional coins, tokens, or merchandise. A coin that is aimed correctly will cause a sweeper (bulldozer) operating on a playing field containing additional coins to push coins into a counting mechanism that will convert the coins into tokens or tickets and dispense them to the player. A token that is aimed correctly will cause a sweeper (bulldozer) operating on a playing field containing additional tokens or merchandise to push the tokens or merchandise into a hole or chute that sends them to the player. A token that is aimed correctly will cause a sweeper (bulldozer) operating on a playing field containing additional tokens to push tokens into a hole or chute that sends them to the player or pushes tokens into a counting mechanism that will convert the tokens into tickets and dispense them to the player.

(B) There may not be a ledge, tip, or similar obstruction that inhibits the passage of coins, tokens, or merchandise into the counting mechanism, hole, or chute.

(ii) Tip-em-up bottle. The player is provided with a pole and a string that has a hoop or ring attached at the end. The player, using the pole with a ring, must raise a bottle lying on its side to an upright position to win.

(iii) Hi-striker. The player, using a wooden maul, must strike a lever target that causes a metal weight to rise on a guideline or track and ring a bell. The player must ring the bell a predetermined number of times to win a prize.

(iv) Rope ladder. The player must climb up a rope ladder, which is anchored at both ends by a swivel, and ring a bell or buzzer to win a prize.

(v) Whac-a-mole. This is a group game that has a target surface with five holes through which animated moles pop up and down at random. The player must hit as many moles as possible with a mallet. The first player to hit a predetermined number of moles wins.

(vi) Dip bowling game. The player rolls a bowling-type ball over a hump in the track. If the ball stays on the back side of the hump, the player wins.

(vii) Horserace derby. This is a group game in which a player advances a horse by shooting or rolling a ball in the target area. The faster and more skillfully the player shoots or rolls the ball, the faster the player's horse will run. The first horse to cross the finish line wins.

(viii) Shuffleboard. The player pushes a puck down a shuffleboard alley to knock over poly pins at the end of an alley. The player wins by knocking down all the pins.

(ix) Bean bag. The player tosses or throws a bean bag or a simulated bean bag at cans, bottles, or other objects on a raised platform. The player wins a prize when the player either knocks the object off the raised platform or tips the target over.

(x) Soccer kick. The player kicks a soccer ball through a hole in the target area to win.

(xi) Frog game. A plastic frog or similar object sits on a small end of a teeter-totter. The opposite end of the teeter-totter is struck with a mallet, causing the frog to fly off the teeter-totter. If the frog lands in a pail or similar receptacle, the player wins a prize.

(xii) Cover the spot. The object of this game is for the player to drop five circular discs onto a circular spot, completely covering the spot. The diameter of each of the discs used to cover the spot must be a minimum of 64% of the diameter of the spot to be covered. The spot to be covered must be painted or drawn on a permanent, solid material, such as metal or wood, or may be a lighted circle. The spot and each disc must have a uniform diameter.

(xiii) Pocket billiards. Using a regulation pocket billiard table, a player must run a consecutive number of balls to win a prize. The number of balls is set by the operator.

(xiv) Other coin- or token-operated games of skill. The player inserts a coin or token into a mechanical, electrical, or electromechanical device manufactured for bona fide amusement purposes only that dispenses tokens or tickets based on the player's skill in operating the device. Games authorized under this subsection are limited to those involving a substantial degree of skill. A substantial degree of skill is present if:

(A) a player's physical or mental abilities play an integral role in determining the number of tokens or tickets accumulated during the play of the game;

(B) the number of tokens or tickets initially received by the average player would increase with repeated play of the game; and

(C) a player's precision, dexterity, or knowledge enables the player to obtain more tokens or tickets than would be received by a less precise, dexterous, or knowledgeable player.

(3) In addition to the amusement games allowed by subsections (1) and (2), the department of justice may adopt rules allowing games that may be operated at a fair or carnival and that meet the requirements of this part and may set and collect fees to offset the costs associated with review and approval.

History

History: En. Sec. 4, Ch. 523, L. 1991; amd. Sec. 3, Ch. 327, L. 1993; amd. Sec. 1, Ch. 353, L. 1993; amd. Sec. 21, Ch. 626, L. 1993.

23-6-105. Authority to inspect.

At any time during normal business hours, local law enforcement officers and department of justice employees may inspect any amusement game made available for public play by an operator, concessionaire, nonprofit organization, or arcade for compliance with [23-6-102](#).

History

History: En. Sec. 5, Ch. 523, L. 1991.

23-6-106. Gambling and illegal gambling devices and enterprises prohibited.

An operator, concessionaire, nonprofit organization, or arcade may not make available for play a gambling or illegal gambling device or enterprise governed under Title 23, chapter 5, parts 1 through 6.

History

History: En. Sec. 6, Ch. 523, L. 1991.

23-6-107. Violations.

A person who purposely or knowingly violates or procures, aids, or abets in a violation of [23-6-102](#) is punishable by a fine not to exceed \$1,000 or by imprisonment in the county jail for a term not to exceed 6 months, or both.

History

History: En. Sec. 7, Ch. 523, L. 1991.

CHAPTER 7 STATE LOTTERY

PART 1 GENERAL

23-7-101. Short title.

This chapter may be cited as the "Montana State Lottery Act of 1985".

History

History: En. Sec. 1, Ch. 669, L. 1985; Sec. 23-5-1001, MCA 1989; redes. 23-7-101 by Sec. 57, Ch. 647, L. 1991.

23-7-102. Purpose.

(1) The purpose of this chapter is to allow lottery games in which the player purchases from the state, through the administrators of the state lottery, a chance to win a prize. This chapter does not allow and may not be construed to allow any game in which a player competes against or plays with any other person, including a person employed by an establishment in which a lottery game may be played.

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

(3) The state lottery may not:

- (a) operate a slot machine or carry on any form of gambling prohibited by the laws of this state; or
- (b) carry on any form of gambling permitted by the laws of this state but which is not a lottery game within the scope of this section and within the definition of "lottery game".

History

History: En. Sec. 2, Ch. 669, L. 1985; Sec. 23-5-1002, MCA 1989; redes. 23-7-102 by Sec. 57, Ch. 647, L. 1991.

PART 2 ADMINISTRATION

23-7-301 Powers and duties of commission.

The commission shall:

- (1) establish and operate a state lottery and may not become involved in any other gambling or gaming;
- (2) determine policies for the operation of the state lottery, supervise the director and the staff, and meet with the director at least once every 3 months to make and consider recommendations, set policies, determine types and forms of lottery games to be operated by the state lottery, and transact other necessary business;
- (3) maximize the net revenue paid to the state under [23-7-402](#) and ensure that all policies and rules adopted further revenue maximization;
- (4) subject to [23-7-402](#)(1), determine the percentage of the money paid for tickets or chances to be paid out as prizes;
- (5) determine the price of each ticket or chance and the number and size of prizes;
- (6) provide for the conduct of drawings of winners of lottery games;
- (7) carry out, with the director, a continuing study of the state lotteries of Montana and other states to make the state lottery more efficient, profitable, and secure from violations of the law;
- (8) study and may enter into agreements with other lottery states to offer lottery games;
- (9) prepare quarterly and annual reports on all aspects of the operation of the state lottery, including but not limited to types of games, gross revenue, prize money paid, operating expenses, net revenue to the state, contracts with gaming suppliers, and recommendations for changes to this part, and deliver a copy of each report to the governor, the department of administration, the legislative auditor, the president of the senate, the speaker of the house of representatives, and each member of the appropriate committee of each house of the legislature as determined by the president of the senate and the speaker of the house; and
- (10) adopt rules relating to lottery staff sales incentives or bonuses and sales agents' commissions and any other rules necessary to carry out this part.

History

History: En. Sec. 5, Ch. 669, L. 1985; amd. Sec. 1, Ch. 161, L. 1987; amd. Sec. 1, Ch. 248, L. 1989; amd. Sec. 2, Ch. 408, L. 1989; Sec. 23-5-1007, MCA 1989; redes. 23-7-202 by Sec. 57, Ch. 647, L. 1991; amd. Sec. 17, Ch. 799, L. 1991; amd. Sec. 45, Ch. 509, L. 1995.

PART 3 RULES AND REGULATIONS

23-7-302. Sales restrictions.

- (1) The price of each lottery game ticket or chance must be clearly stated thereon. The price of a lottery game chance vended by a machine or electronic device must be clearly stated on the machine or device.
- (2) Tickets and chances may not be sold to or purchased by persons under 18 years of age.
- (3) Tickets and chances may be purchased only with cash or a check and may not be purchased on credit.
- (4) Tickets and chances may not be sold to or purchased by commissioners, the director, his staff, gaming suppliers doing business with the state lottery, suppliers' officers and employees, employees of any firm auditing or investigating the state lottery, governmental employees auditing or investigating the state lottery, or members of their households.
- (5) The names of elected officials may not appear on any ticket or chance.

History

History: En. Sec. 10, Ch. 669, L. 1985; amd. Sec. 9, Ch. 161, L. 1987; amd. Sec. 5, Ch. 408, L. 1989; Sec. 23-5-1017, MCA 1989; redes. 23-7-302 by Sec. 57, Ch. 647, L. 1991; amd. Sec. 18, Ch. 398, L. 1993.

23-7-306 Felony and gambling-related convictions -- ineligibility for lottery positions.

No person who has been convicted of a felony or a gambling-related offense under federal law or the law of any state may be a commissioner, director, assistant director, employee of the state lottery, or licensed ticket or chance sales agent. Prior to appointment as a commissioner, director, assistant director, or employee, a person shall submit to the commission a full set of fingerprints made at a law enforcement agency by an agent or officer of such agency on forms supplied by the agency. The assistant director for security may require a ticket or chance sales agent to submit fingerprints prior to licensing.

History

History: En. Sec. 14, Ch. 669, L. 1985; amd. Sec. 6, Ch. 408, L. 1989; Sec. 23-5-1019, MCA 1989; redes. 23-7-306 by Sec. 57, Ch. 647, L. 1991.

23-7-307. Conflict of interest.

No commissioner, director, assistant director, state lottery employee, licensed ticket or chance sales agent, or member of his household may have a financial interest in any gaming supplier or any contract between the state lottery and a gaming supplier or accept any gift or thing of value from a gaming supplier.

History

History: En. Sec. 15, Ch. 669, L. 1985; amd. Sec. 7, Ch. 408, L. 1989; Sec. 23-5-1020, MCA 1989; redes. 23-7-307 by Sec. 57, Ch. 647, L. 1991.

23-7-310. Disclosures by gaming suppliers.

(1) Any person, firm, association, or corporation that submits a bid or proposal for a contract to supply lottery equipment, tickets, or other material or consultant services for use in the operation of the state lottery shall disclose at the time of such bid or proposal:

(a) the supplier's business name and address and the names and addresses of the following:

(i) if the supplier is a partnership, all of the general and limited partners;

(ii) if the supplier is a trust, the trustee and all persons entitled to receive income or benefit from the trust;

(iii) if the supplier is an association, the members, officers, and directors;

(iv) if the supplier is a corporation, the officers, directors, and each owner or holder, directly or indirectly, of any equity security or other evidence of ownership of any interest in the corporation; except that, in the case of owners or holders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those owning or holding 5% or more of the publicly held securities must be disclosed;

(v) if the supplier is a subsidiary company, each intermediary company, holding company, or parent company involved therewith and the officers, directors, and stockholders of each; except that, in the case of owners or holders of publicly held securities of an intermediary company, holding company, or parent company which is a publicly traded corporation, only the names and addresses of those owning or holding 5% or more of the publicly held securities must be disclosed;

(b) if the supplier is a corporation, all the states in which the supplier is authorized to do business and the nature of that business;

(c) other jurisdictions in which the supplier has contracts to supply gaming materials, equipment, or consultant services;

(d) the details of any conviction, state or federal, of the supplier or any person whose name and address are required by subsection (1)(a) of a criminal offense punishable by imprisonment for more than 1 year and shall submit to the commission a full set of fingerprints of such person made at a law enforcement agency by an agent or officer of such agency on forms supplied by the agency;

(e) the details of any disciplinary action taken by any state against the supplier or any person whose name and address are required by subsection (1)(a) regarding any matter related to gaming consultant services or the selling, leasing, offering for sale or lease, buying, or servicing of gaming materials or equipment;

(f) audited annual financial statements for the preceding 5 years;

(g) a statement of the gross receipts realized in the preceding year from gaming consultant services and the sale, lease, or distribution of gaming materials or equipment to states operating lotteries and to private persons licensed to conduct gambling, differentiating that portion of the gross receipts attributable to transactions with states operating lotteries from that portion of the gross receipts attributable to transactions with private persons licensed to conduct gambling;

(h) the name and address of any source of gaming materials or equipment for the supplier;

(i) the number of years the supplier has been in the business of supplying gaming consultant services or gaming materials or equipment; and

(j) any other information, accompanied by any documents the commission by rule may reasonably require as being necessary or appropriate in the public interest to accomplish the purposes of this chapter.

(2) No person, firm, association, or corporation contracting to supply gaming equipment or materials or consultant services to the state for use in the operation of the state lottery may have any financial interest in any person, firm, association, or corporation licensed as a ticket or chance sales agent.

(3) No contract for supplying consultant services or gaming materials or equipment for use in the operation of the state lottery is enforceable against the state unless the requirements of this section have been fulfilled.

History

History: En. Sec. 17, Ch. 669, L. 1985; amd. Sec. 6, Ch. 161, L. 1987; Sec. 23-5-1021, MCA 1989; redes. 23-7-310 by Sec. 57, Ch. 647, L. 1991.

PART 4 FINANCES AND AUDITS

23-7-402. (*Effective July 1, 1999*) Disposition of revenue.

(1) A minimum of 45% of the money paid for tickets or chances must be paid out as prize money. The prize money is statutorily appropriated, as provided in [17-7-502](#), to the lottery.

(2) Commissions paid to lottery ticket or chance sales agents are not a state lottery operating expense.

(3) That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise fund, is net revenue. Net revenue must be transferred quarterly from the enterprise fund established by [23-7-401](#) to the state general fund.

(4) The spending authority of the lottery may be increased in accordance with this section upon review and approval of a revised operation plan by the office of budget and program planning.

History

History: En. Sec. 13, Ch. 669, L. 1985; amd. Sec. 4, Ch. 161, L. 1987; amd. Secs. 5, 7, Ch. 635, L. 1987; amd. Sec. 1, Ch. 206, L. 1989; amd. Sec. 8, Ch. 408, L. 1989; amd. Sec. 5, Ch. 628, L. 1989; amd. Sec. 44, Ch. 11, Sp. L. June 1989; Sec. 23-5-1027, MCA 1989; redes. 23-7-402 by Sec. 57, Ch. 647, L. 1991; amd. Sec. 16, Ch. 799, L. 1991; amd. Sec. 1, Ch. 461, L. 1993; amd. Sec. 46, Ch. 509, L. 1995; amd. Sec. 6, Ch. 494, L. 1997.

TITLE 33 INSURANCE AND INSURANCE COMPANIES

CHAPTER 15 THE INSURANCE CONTRACT

PART 2 INSURABLE INTERESTS

33-15-207. Insurance without interest or of wager -- void.

(1) Every stipulation in a policy of insurance of property for the payment of loss without regard to absence of an insurable interest in such property on the part of the insured or that the policy shall be received as proof of such interest is void.

(2) Every policy executed by way of gaming or wagering is void.

History

History: En. Sec. 266, Ch. 286, L. 1959; R.C.M. 1947, 40-3709.

TITLE 41 MINORS

CHAPTER 5 YOUTH COURT

PART 2 YOUTH COURT-JURISDICTION-RECORDS

41-5-203. Jurisdiction of court.

(1) Except as provided in subsection (2) and for cases filed in the district court under [41-5-206](#), the court has exclusive original jurisdiction of all proceedings under the Montana Youth Court Act in which a youth is alleged to be a delinquent youth, a youth in need of intervention, or a youth in need of care or concerning any person under 21 years of age charged with having violated any law of the state or any ordinance of a city or town other than a traffic or fish and game law prior to having become 18 years of age.

(2) Justice, municipal, and city courts have concurrent jurisdiction with the youth court over all alcoholic beverage, tobacco products, and gambling violations alleged to have been committed by a youth.

(3) The court has jurisdiction to:

(a) transfer a youth court case to the district court after notice and hearing; and

(b) with respect to extended jurisdiction juvenile cases:

(i) designate a proceeding as an extended jurisdiction juvenile prosecution;

(ii) conduct a hearing, receive admissions, and impose upon a youth who is adjudicated as an extended jurisdiction juvenile a sentence that may extend beyond the youth's age of majority;

(iii) stay that portion of an extended jurisdiction sentence that is extended beyond a youth's majority, subject to the performance of the juvenile portion of the sentence;

(iv) continue, modify, or revoke the stay after notice and hearing;

(v) after revocation, transfer execution of the stayed sentence to the department;

(vi) transfer supervision of any juvenile sentence if, after notice and hearing, the court determines by a preponderance of the evidence that the juvenile has violated or failed to perform the juvenile portion of an extended jurisdiction sentence; and

(vii) transfer a juvenile case to district court after notice and hearing.

History

History: En. 10-1206 by Sec. 6, Ch. 329, L. 1974; amd. Sec. 3, Ch. 100, L. 1977; amd. Sec. 1, Ch. 446, L. 1977; R.C.M. 1947, 10-1206; amd. Sec. 1, Ch. 427, L. 1979; amd. Sec. 22, Ch. 626, L. 1993; amd. Sec. 2, Ch. 376, L. 1995; amd. Sec. 1, Ch. 498, L. 1997; amd. Secs. 15, 76, Ch. 550, L. 1997.

TITLE 44 LAW ENFORCEMENT

CHAPTER 1 HIGHWAY PATROL

PART 6 PROBATIONARY STATUS AND TENURE

44-1-612. Cause for suspension, demotion, or discharge.

Cause for suspension, demotion, or discharge is:

(1) conviction of any crime involving moral turpitude in any court of competent jurisdiction subsequent to the commencement of such employment;

(2) gross neglect of duty or willful violation or disobedience of orders or regulations;

(3) loitering about or entering places of ill fame or ill repute or in which illegal gambling is known to be conducted or to be in progress, except in the immediate discharge of duty;

(4) conduct unbecoming an officer;

(5) drinking intoxicating liquor while using state-owned cars or in uniform or being intoxicated in a public place;

(6) sleeping while on duty;

(7) incapacity or partial incapacity materially affecting ability to perform official duties;

(8) gross inefficiency in performing duties; or

(9) willful disobedience of rules adopted by the department of justice governing the conduct and discipline of

members of the patrol.

History

History: En. Sec. 5, Ch. 199, L. 1943; amd. Sec. 1, Ch. 187, L. 1951; amd. Sec. 1, Ch. 219, L. 1953; amd. Sec. 1, Ch. 268, L. 1955; amd. Sec. 1, Ch. 225, L. 1957; amd. Sec. 1, Ch. 109, L. 1959; amd. Sec. 1, Ch. 55, L. 1967; amd. Sec. 5, Ch. 188, L. 1975; amd. Sec. 1, Ch. 483, L. 1975; amd. Sec. 4, Ch. 343, L. 1977; R.C.M. 1947, 31-105(6); amd. Sec. 5, Ch. 7, L. 1979; amd. Sec. 1, Ch. 503, L. 1985.

CHAPTER 2 INVESTIGATION

PART 1 CRIMINAL INVESTIGATIONS, COMMUNICATION AND IDENTIFICATION

44-2-115. Powers and duties of agents.

An agent appointed by the attorney general pursuant to this part is a peace officer and:

- (1) shall provide investigative assistance to city, county, state, and federal law enforcement agencies at their request in accordance with rules adopted by the department of justice;
- (2) shall have concurrent jurisdiction with local law enforcement agencies to investigate offenses involving dangerous drugs, as provided in Title 45, chapter 9, and violations that constitute organized criminal activity;
- (3) shall investigate gambling activities in this state as provided in [23-5-113](#);
- (4) shall investigate any apparent violations of penal statutes disclosed by an audit of a state agency by the legislative auditor;
- (5) shall investigate apparent violations of penal statutes referred by the state workers' compensation insurance fund; and
- (6) shall assist whenever possible any law enforcement school held in the state for law enforcement officers when requested.

History

History: En. Sec. 3, Ch. 176, L. 1967; amd. Sec. 3, Ch. 219, L. 1971; R.C.M. 1947, 82-416; amd. Sec. 16, Ch. 7, L. 1979; amd. Sec. 3, Ch. 280, L. 1991; amd. Sec. 14, Ch. 630, L. 1993.

CHAPTER 13 SPECIAL LAW ENFORCEMENT ASSISTANCE FUNDING

PART 1 SPECIAL LAW ENFORCEMENT ASSISTANCE ACCOUNT

44-13-103. Limitations on use of special law enforcement assistance account.

- (1) After property is credited to the account, the attorney general may:
 - (a) transfer the property to any local or state law enforcement agency to be used for criminal investigation purposes;
 - (b) sell the property by public sale;
 - (c) destroy any illegal or controlled substances and sell or destroy raw materials, products, and equipment used or intended for use in manufacturing, compounding, or processing a controlled substance;
 - (d) compromise and pay claims against the property; and
 - (e) make any other disposition of the property authorized by law.
- (2) Money and proceeds from property credited to the account may be used by the attorney general for:
 - (a) the payment of any expenses necessary to seize, detain, appraise, inventory, safeguard, maintain, advertise, or sell seized, detained, or forfeited property, including but not limited to payment for contract services and reimbursement to a federal, state, or local agency for its expenses;
 - (b) the payment of awards for information or assistance leading to a criminal proceeding or a civil forfeiture proceeding;
 - (c) the compromise and payment of claims against property;
 - (d) the payment of sums for criminal investigation purposes, including but not limited to:
 - (i) payment of informants;
 - (ii) use by undercover agents to purchase unlawful substances, including, without limitation, counterfeit or real controlled substances, pornographic materials, stolen property, or other contraband;

- (iii) use by undercover agents as gambling front money; and
- (iv) payment of overtime to state or local law enforcement officers when engaged in special criminal investigations;
- (e) the payment of funds into the account created by [53-9-109](#); and
- (f) matching federal grants for criminal investigation purposes.

History

History: En. Sec. 3, Ch. 625, L. 1985; amd. Sec. 1, Ch. 206, L. 1987; amd. Sec. 36, Ch. 112, L. 1991; amd. Sec. 33, Ch. 349, L. 1993; amd. Sec. 65, Ch. 545, L. 1995.