

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 23.16.1712, 23.16.1714, and)	PROPOSED AMENDMENT
23.16.1715 pertaining to the conduct)	
of sports tab games, the award of)	
sports tab game prizes, and sports)	
tab game record keeping)	
requirements)	

TO: All Concerned Persons

1. On July 15, 2015, at 9:00 a.m., the Department of Justice will hold a public hearing in the conference room at the Gambling Control Division, 2550 Prospect Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Justice no later than 5:00 p.m. on July 10, 2015, to advise it of the nature of the accommodation that you need. Please contact Rick Ask, Administrator, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, Montana, 59620-1424; telephone (406) 444-1971; fax (406) 444-9157; Montana Relay Service 711; or e-mail rask@mt.gov.

3. The proposed rule amendments provide as follows, new matter underlined, deleted matter interlined:

23.16.1712 DESIGN AND CONDUCT OF SPORTS TAB GAME (1) A sports tab game may be conducted ~~only as a traditional sports tab game in conjunction with a single sports event with two competitors, or as a series sports tab game.~~ A sponsor may conduct more than one sports tab game for each event.

(a) A "traditional sports tab game" involves a single sports event with two competitors that is conducted using a sports tab card. A winner is determined by matching the numbers printed on the sports tab with the only or last digit of the score of each competitor in the sports event at the conclusion of the event. Winners may also be determined by the score at predetermined intervals during the event as long as there is also a winner and prize awarded based upon the score at the conclusion of the event. If any prize is awarded for a score attained at a predetermined interval, the value of any such prize may not exceed the value of the prize awarded for the score attained at the conclusion of the event, as provided in ARM 23.16.1714.

(b) A "series sports tab game" is conducted using a single sports tab card in conjunction with a series of sports events. The pair of numbers on a participant's sports tab are used for each sports event in the series. The competitors in each sports event in the series may be individual teams or a combination of teams (e.g., a

group of teams designated as home teams versus a group of teams designated as away teams). Sports tabs must be sold for all events in the series of sports events and may not be sold for individual events. Winners for each sports event in the series are determined:

(i) in the same manner as in a traditional sports tab game; or

(ii) in the same manner as in a traditional sports tab game for the first sports event in the series. For the second and subsequent events, winners are determined by combining the scores generated by each competitor in the previous events.

~~(2) A winner or winners of a sports tab game are determined by matching the appropriate numbers on a participant's sports tab with the only or last digit of the competitors' score at the end of the sports event, and if designated before the event by the sponsor, at intervals during the sports event, as provided in ARM 23.16.1714.~~

~~(3) Before the sale of any sports tabs in a sports tab game, the sponsor shall describe the game by prominently displaying the following information on the sports tab card or on a board to which the card is attached:~~

~~(a) name of the competitors in the sports event;~~

~~(b) date of the sports event or dates of the series of sports events;~~

~~(c) notification of which competitor's score corresponds to the first and second numbers on the sports tab;~~

~~(d) name of the sponsor;~~

~~(e) cost of a sports tab;~~

~~(f) total dollar value of all prizes to be awarded to winners;~~

~~(g) total amount to be retained by the sponsor;~~

~~(h) dollar amount or type and value of merchandise to be awarded to each winner;~~

~~(i) predetermined intervals, as provided in ARM 23.16.1714, during the sports event for which prizes are to be awarded, if any; and~~

~~(j) name of the competitors and the date of the sports event that will be substituted for the original sports event if it is cancelled.~~

~~(4)(3) After sale of the sports tabs begins, the sponsor:~~

~~(a) may not cancel the sports tab game or alter the game in any manner; and~~

~~(b) shall award all prizes only at the end conclusion of the single sports event in a traditional sports tab game, or at the conclusion of all sports events in a series sports tab game, in accordance with the description required under ~~(3)(2)~~, regardless of whether all sports tabs on the sports tab card are sold to participants before the start of the sports event.~~

~~(5)(4) The sports tab games purchased must have a permanent, unduplicated serial number printed on the sports tab card and have the same number printed on each sports tab affixed to the sports tab card. The sports tab cards must not have any concealed numbers on the card other than those concealed by the 100 sports tabs.~~

~~(6)(5) All money paid to participate in each sports tab game shall be kept separate from any other money. No share for charitable contributions or administrative expenses may be separated from the total amount collected until after the sports event has occurred.~~

AUTH: 23-5-115, MCA

IMP: 23-5-501, 23-5-503, MCA

23.16.1714 SPORTS TAB GAME PRIZES (1) For the purposes of this rule, "cost of the sports tabs" means an amount that is equal to the amount paid by a participant for a single sports tab multiplied by 100.

(2) Winners may be determined by the score at predetermined intervals during the event as long as there is also a winner and prize awarded based upon the score attained at the ~~end~~ conclusion of the event. If any prize is to be awarded for a score attained at a predetermined interval during a sports event, the value of any such prize may not exceed the value of the prize to be awarded for the score at the ~~end~~ conclusion of the event.

(3) Except as provided in ~~(6)~~(5), a sponsor shall pay to the winners of a sports tab game at least 90% of the cost of the sports tabs. The sponsor may retain up to 10% of the cost of the sports tabs.

(4) The total value of all prizes awarded in a sports tab game may not exceed \$2,500. Prizes ~~must~~ may be in cash or merchandise, or a combination of cash and merchandise.

~~(5)~~ If merchandise is awarded, the purchase price paid for the merchandise is considered to be the value of the prize. Except as provided in ~~(6)~~(5), if the value of the merchandise is less than 90% of the cost of the sports tabs the difference must be awarded to the winners in cash.

~~(6)~~(5) A sponsor who is a nonprofit organization may retain up to 50% of the cost of the sports tabs if the organization meets the requirements of 23-5-503, MCA.

~~(7)~~(6) All prizes must be available for distribution to winners immediately at the ~~end~~ conclusion of the sports event, or at the conclusion of all sports events in a series sports tab game.

AUTH: 23-5-115, MCA

IMP: 23-5-501, 23-5-502, 23-5-503, MCA

23.16.1715 SPONSOR RECORD KEEPING REQUIREMENTS (1) After a winning sports tab is submitted to the sponsor and a prize is awarded, the sponsor shall cancel the tab, by whatever means chosen, and attach the cancelled tab to the sports tab card or board. ~~A sports tab that was not sold to a participant must remain attached to the sports tab card.~~

(2) A sports tab that was not sold to a participant may be revealed by the sponsor after the beginning of the sports event, but all unsold sports tabs must remain attached to the sports tab card.

~~(2)~~(3) The sponsor shall retain a sports tab card that was used in a sports tab game for at least one year after the date of the sports event upon which the sports tab game was based.

~~(3)~~(4) If merchandise is awarded as a prize, the sponsor shall retain proof of the purchase price of the merchandise for one year after the date of the sports event.

AUTH: 23-5-115, MCA

IMP: 23-5-501, 23-5-503, MCA

RATIONALE AND JUSTIFICATION: Prior to the 2015 Legislature's passage of HB 38, sports tab games were only authorized to be used in conjunction with a single sports event. The legislative amendment to 23-5-501, MCA, authorized the use of sports tab games to be used in a series of sports events, in addition to single sports events as previously authorized. These amendments are reasonably necessary to implement HB 38, to differentiate between a traditional sports tab game and a series sports tab game, and to clarify the scope of the rules that apply to traditional sports tab games and series sports tab games. Because sports tab boards contain 100 tabs (or chances), these rule amendments largely adopt the administrative rules for the operation of traditional and series sports pools conducted on a 100-square (100 chances) sports pool board.

Unlike a sports pool where the identification of the participants is written on a sports pool board, only the sports tab game participants know the numbers which are printed on their selected tabs. As a result, the rules require participants in a series sports tab game to retain their sports tabs until the conclusion of the sports event in a traditional sports tab game, or until the conclusion of all events in a series of events. At that time, the winning tab numbers are redeemed by submitting them to the sports tab game sponsor for prize payout. The sponsor then attaches those winning tabs to the sports tab game card, as currently required by these rules.

As in a sports pool game, prizes in a sports tab game are based upon the price per tab. Therefore, when a sports tab game sponsor does not sell all of the sports tabs to participants, the unsold tabs belong to the game sponsor and must remain attached to the sports tab card for record keeping and reconciliation purposes. These amendments, however, allow the sponsor to reveal the concealed numbers printed on the unsold tabs in order that the sponsor may determine whether any of the unsold tabs contain winning numbers.

The amendments make other nonsubstantive stylistic changes for internal consistency, clarity, and ease of reading.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Rick Ask, Administrator, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, Montana, 59620-1424; telephone (406) 444-1971; fax (406) 444-9157; or e-mail rask@mt.gov, and must be received no later than 5:00 p.m., July 23, 2015.

5. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or

delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

6. Cregg W. Coughlin, Assistant Attorney General, Gambling Control Division, has been designated to preside over and conduct the hearing.

7. An electronic copy of this proposal notice is available through the department's web site at <https://dojmt.gov/agooffice/administrative-rules>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor contact requirement of 2-4-302, MCA, does apply and has been fulfilled. Rep. Casey Schreiner, the primary bill sponsor of HB 38, was provided with an initial draft, in person, on May 15, 2015.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Timothy C. Fox
TIMOTHY C. FOX
Attorney General
Department of Justice

/s/ Matthew T. Cochenour
MATTHEW T. COCHENOUR
Rule Reviewer

Certified to the Secretary of State June 15, 2015.