

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption of)	NOTICE OF PUBLIC HEARING ON
New Rule I pertaining to antique)	PROPOSED ADOPTION AND
gambling devices and the)	AMENDMENT
amendment of ARM 23.16.102.)	
23.16.104, 23.16.107, 23.16.118,)	
23.16.209, 23.16.301, 23.16.502,)	
23.16.503, 23.16.1701,)	
23.16.1702, 23.16.1703,)	
23.16.1704, 23.16.1706,)	
23.16.1712, 23.16.1714,)	
23.16.1823, 23.16.1901, and)	
23.16.1920 pertaining to gambling)	
operator license applications and)	
processing, escrowed funds,)	
illegal devices, VGM permit)	
eligibility, sports pool games and)	
sports tabs, shake-a-day games,)	
and VGM specifications and)	
restrictions)	

TO: All Concerned Persons

1. On September 27, 2019, at 1:30 p.m., the Department of Justice will hold a public hearing in the conference room of the Gambling Control Division, 2550 Prospect Avenue, Helena, Montana, to consider the proposed adoption and 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 rulemaking process 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 September 20, 2019, to advise us of the nature of the accommodation that you need. Please contact Jean Saye, Department of Justice, 2550 Prospect Avenue, P.O. Box 201424, Helena, Montana, 59620-1424; telephone (406) 444-1971; fax (406) 444-9157; or e-mail jsaye@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I ANTIQUE GAMBLING DEVICES (1) The terms antique gambling device and public gambling have the definitions found in 23-5-112, MCA.

(2) An antique gambling device may be operated only:

(a) for public gambling by a licensed gambling operator if the device is a VGM permitted as required by law; or

- (b) in a private residential dwelling for purposes other than public gambling.
- (3) A licensee or nonlicensee may possess an antique gambling device that is not permitted as a VGM or that does not qualify for a permit. The device may be displayed in a public setting, but the device must not be offered for play and must be:
 - (a) inaccessible to the public by restricted placement, glass enclosure, or other effective physical barriers to reach; or
 - (b) rendered inoperable for purposes of conducting a gambling activity.
- (4) A licensed gambling operator shall notify the department in writing before displaying an antique gambling device on the licensed premises.
- (5) An antique gambling device may be offered for sale, subject to the restrictions of 23-5-153, MCA, and all other applicable federal, state, and tribal laws.
- (6) To qualify as an antique gambling device, a device must conform to the age standards set forth in 23-5-112, MCA, and the proof standards set forth in 23-5-153, MCA. An antique gambling device may be restored but:
 - (a) must possess mostly original cabinet parts, castings, and components; and
 - (b) the mechanical mechanism or electronic components must be substantially original in parts and design.

AUTH: 23-5-115, MCA

IMP: 23-5-112, 23-5-152, 23-5-153, MCA

REASON: Prior to 2019, the Gambling Code generally forbade possession of illegal gambling devices, but created a special class of devices defined as "antique illegal gambling devices." The former code allowed a licensee or a nonlicensee to possess an "antique illegal gambling device."

The Gambling Code permitted collectors to keep slot machines over 25 years old the collector may have owned prior to passage of the Video Gaming Machine Control Law in 1989. Since 1989, legal video gambling devices, which could only be possessed by a licensee, aged to become 25 or more years old. This led to the irrational result of a nonlicensee being able to possess an antique illegal gambling device, but being forbidden to possess an antique legal video gambling machine. SB 25, 2019 Mont. Laws, ch. 57, cured that peculiar legal outcome by eliminating the class of devices called "antique illegal" gambling devices. Following the 2019 statutory changes, any gambling device 30 or more years old is considered an antique (subject to a grandfather provision for those between 25 and 30 years old) and may be possessed by licensees or nonlicensees.

This new rule and the amendments to ARM 23.16.209 are necessary to implement these statutory changes.

The new rule and the ARM 23.16.209 amendments separately address illegal gambling devices and antique gambling devices. Though many regulatory provisions are unchanged, this distinction is necessary because there are tighter restrictions on possession and display of illegal gambling devices. Antique

gambling devices are more freely sold, possessed, and displayed. Under both the former and current versions of the Gambling Code, it is lawful to display both types of devices, but the statutory amendments ease some of the restrictions on public displays of antique gambling devices. Formerly, an antique device could be displayed in public only after being rendered unplayable, virtually destroying its historic value or monetary value as a collectible. The new rule incorporates these statutory changes.

The new rule and amended rule prohibit public play of all illegal devices or unpermitted legal devices while allowing a collector to play an antique device such as a slot machine or roulette wheel only in a nonpublic, residential setting.

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

23.16.102 APPLICATION FOR GAMBLING LICENSE - LICENSE FEE

(1) remains the same.

(2) An application for a gambling license must be submitted to the Department of Justice, Gambling Control Division, on forms prescribed by the department and described herein. The application is not complete unless it is signed and dated by all or any applicant(s) and contains all information, statements, documentation, and fees required by the department. An applicant applying for a gambling operator license prior to approval of a premises under 23-5-177, MCA, must submit an electronic application.

(3) through (5) remain the same.

AUTH: 23-5-112, 23-5-115, 23-5-621, MCA

IMP: 23-5-115, 23-5-118, 23-5-128, 23-5-129, 23-5-177, 23-5-178, 23-5-308, 23-5-324, 23-5-513, 23-5-625, MCA

REASON: The 2019 Legislature amended 23-5-117 and 23-5-177, MCA. See HB 727, 2019 Mont. Laws, ch. 479. This amendment is necessary to recognize the statutory amendment now permitting certain gambling operator applicants to gain license approval prior to a premises approval. Electronic applications will streamline the Gambling Control Division's investigation and final processing when the applicant later identifies a premises and applies for premises approval.

23.16.104 PROCESSING OF GAMBLING LICENSE APPLICATION

(1) remains the same.

(2) If the department issues a gambling operator license prior to approval of a premises under 23-5-117, MCA:

(a) the licensee must, within six months of the license approval, electronically submit an application for premises approval, which the department will investigate under standards outlined in 23-5-117, MCA; and

(b) the licensee may not offer any gambling activity until the premises has been approved.

(2) remains the same, but is renumbered (3).

AUTH: 23-5-115, MCA
IMP: 23-5-115, 23-5-117, 23-5-177, MCA

REASON: Same as ARM 23.16.102.

23.16.107 GROUNDS FOR DENIAL OF GAMBLING LICENSE, PERMIT, OR AUTHORIZATION (1) through (1)(j) remain the same.

(k) failed to meet other qualifications for licensure as set forth in 23-5-176, MCA; or

(l) had a gambling license denied for other than technical defects in the application; or

(m) failed to apply for or receive approval of a premises within the timeframe required in ARM 23.16.502.

(2) remains the same.

AUTH: 23-5-112, 23-5-115, MCA
IMP: 23-5-115, 23-5-117, 23-5-176, 23-5-177, MCA

REASON: Same as ARM 23.16.102.

23.16.118 ESCROW REQUIRED (1) ~~Money~~ Except as provided in (3), money or any other thing of value constituting consideration for transferring an interest in a licensed gambling operation may not be paid, received, or used until the provisions of ARM 23.16.116 or 23.16.117 have been met. However, the funds may be placed in escrow pending compliance with these provisions.

(2) remains the same.

(3) Funds related to the transfer of an interest in a licensed gambling operation may be exchanged or released from escrow when temporary gambling authority is granted under ARM 23.16.509.

AUTH: 23-5-115, MCA
IMP: 23-5-118, 23-5-176, MCA

REASON: This rule was promulgated in 1991 and required the parties to the sale of a licensed business to escrow funds until the Gambling Control Division (GCD) completed its license application investigation. Many years later, GCD promulgated ARM 23.16.509, allowing GCD to issue temporary gambling authority to an applicant before it completed its investigation. This rule as originally written did not contemplate temporary gambling authority. Now this rule is unnecessarily restrictive and inhibits business transactions where the investigation has found no applicant suitability issues and the GCD has issued the applicant temporary gambling authority. To streamline transfers of ownership interests in gambling operations, gambling industry representatives have advocated relaxing the escrow requirement when the GCD grants an applicant temporary authority. The GCD has not enforced the escrow requirement in cases involving temporary gambling authority. This

amendment harmonizes the escrow and temporary authority rules, recognizes reasonable industry recommendations, and codifies GCD's recent practice.

23.16.209 DISPLAY OF ILLEGAL GAMBLING DEVICES AND ANTIQUE ILLEGAL GAMBLING DEVICES (1) The following definitions apply for this rule:

(a) the terms "illegal gambling device" and "public gambling" have the definitions found in 23-5-112, MCA; and

(b) the term "museum" means a facility or registered historic site, whether publicly or privately owned, where objects of historic, scientific, artistic, or cultural interest are exhibited or demonstrated to the public.

(2) An illegal gambling device may not be:

(a) possessed, sold, or exchanged for value except as allowed by 23-5-152, MCA; or

(b) operated by any person to offer public gambling.

~~(1)(3) If an An illegal gambling device as defined in 23-5-112, MCA, is displayed in a public place other than a museum, it must be:~~

~~(a) and (b) remain the same.~~

~~(2) remains the same but is renumbered (4).~~

~~(3) Except as provided in (4), public display of an antique illegal gambling device must comply with the requirements of (1).~~

~~(4) An antique illegal gambling device, as defined in 23-5-153, MCA, may be:~~

~~(a) displayed only and not operated in a public or private museum;~~

~~(b) possessed and operated for private use only in a private residential dwelling; or~~

~~(c) displayed only and not operated in a retail business establishment if the device is being offered for resale.~~

~~(5) To qualify as an antique gambling device, a slot machine must have been manufactured more than 25 years prior to the date of possession, may be restored but must possess mostly original cabinet parts and castings, the mechanical mechanism must be substantially original in parts and design, and the machine must display its original serial number or show evidence where the original serial number once existed but was removed.~~

AUTH: 23-5-115, MCA

IMP: 23-5-112, 23-5-152, 23-5-153, MCA

REASON: As described in the reason statement for New Rule I, the 2019 Legislature eliminated the class of gambling devices known as "antique illegal gambling devices." Following the 2019 statutory changes, any gambling device 30 or more years old is considered an antique (subject to a grandfather provision for those between 25 and 30 years old) and may be possessed by licensees or nonlicensees. This rule, ARM 23.16.209, formerly addressed the display of both illegal gambling devices and antique illegal gambling devices.

The tighter restrictions on possession and display of illegal gambling devices justify separate rules for the two classes of devices: New Rule I, pertaining to antique gambling devices; and ARM 23.16.209, pertaining to illegal gambling

devices. Under both the former and current versions of the Gambling Code, it is lawful to display both types of devices, but the statutory amendments ease some of the restrictions on public displays of antique gambling devices. The Gambling Code has fewer restrictions on an illegal device possessed or displayed "in a public or private museum" as compared to possession or display in any other public space. Neither the Gambling Code nor the rule defined the term "museum." This rule amendment offers a definition of a museum to clarify the difference between a private collection and a private museum.

While it is lawful in some circumstances to play an antique gambling device, an illegal device may never be permitted or played in public. These amendments clarify the statutory distinctions between newly defined antique gambling devices and illegal gambling devices.

23.16.301 MERCHANDISE PRIZES AND SHAKE-A-DAY GAMES

(1) In the case of merchandise prizes authorized in shake-a-day games (excluding shaking for a drink or music), those prizes may not exceed the value of the pot. All shake-a-day games are subject to these general rules:

(a) the price per play may not exceed 50 cents;

(b) a player may play more than one pot per day, but may not play any individual pot more than once per day;

(c) the player must be allowed to choose the pot or pots the player plays;

(d) no more than five dice may be used;

(e) a gambling operator may offer noncash prizes for a winning combination, but the gambling operator may not award an additional roll of the dice; and

(f) the licensee must record and retain for 90 days the winner's name and contact information, the date, and the amount won.

(2) Cash in a shake-a-day pot is subject to the following rules:

(a) a gambling operator may contribute cash to initially fund the pot, but that contribution may not be removed to reimburse the licensee;

(b) a gambling operator may not remove money from a pot for any reason, including reimbursing the licensee for noncash prizes such as drinks or merchandise awarded to players;

(c) a gambling operator may not cap the total cash in a pot, which must be allowed to grow until a winner is declared;

(d) the pot collected in each shake-a-day game must be kept separate from other shake-a-day pots and the gambling operator's other cash;

(e) a gambling operator may secure a pot on the premises, but the cash must be available to all employees and immediately paid to the winning player; and

(f) except for a predetermined percentage held back to fund a following game, the winner must receive all of the cash in a pot.

(3) Each gambling operator offering a shake-a-day game must clearly post the rules of the house games, which must include:

(a) price per play for each pot, which may not exceed 50 cents;

(b) the total cash in the pot, updated daily;

(c) the dice combinations required to win the pot or noncash prizes supplied by the gambling operator; and

(d) the percentage of the pot retained from a win to be used to fund the next game.

AUTH: 23-5-115, MCA

IMP: 23-5-160, MCA

REASON: Experience has shown that the current shake-a-day rule is inadequate. The absence of rules has led to the possibility players might not win the amount due to them. Additionally, the absence of basic rules for the conduct of shake-a-day games has led to uncertainty for licensees and investigators alike.

For example, the Gambling Control Division investigated an instance where a licensee "borrowed" funds from a shake-a-day pot but the absence of any accounting opened the possibility the money was not returned in full. The division has investigated numerous instances where the pot is capped and money over that cap is used to start another pot. Licensees are permitted to withhold from a winner a percentage of the pot for the following game. With no requirement to post the total in the pot, licensees or employees can remove cash from a pot undetected. Unless the portion withheld is disclosed, a player cannot know what portion will be withheld. Each of these scenarios could result in something other than a fair game.

These amendments are needed to ensure a fair game consistent with the public policy of the State.

23.16.502 APPLICATION FOR OPERATOR LICENSE (1) All Except as provided in (2) and (3), all applicants shall submit the following information on Forms 5, 10, 40, or 43, and FD-258, which are incorporated by reference and available from the Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, MT 59620-1424, or on the division's web site www.doj.mt.gov/gaming www.dojmt.gov/gaming:

(a) through (e)(vi) remain the same.

(vii) if the owner(s) acquires the services of a gambling manager or management firm, the information must be submitted for the owner and the manager or management firm; ~~and~~

(f) the full name and address of every location manager; and

(g) a floor plan of the proposed premises that clearly identifies the areas where gambling activities will occur.

(2) If a premises has not been identified at the time of the application, applicants have six months from issuance of the license to apply for premises approval. The premises must meet suitability standards outlined in 23-5-117, MCA, and be approved within one year of issuance of the gambling operator license. Failure to apply for or receive approval of a premises within the required timeframe will result in administrative action to revoke the initial license approval.

(3) The department may consider an amended application process for applicants that possess an alcoholic beverage license.

(2) remains the same, but is renumbered (4).

AUTH: 23-5-112, 23-5-115, MCA

IMP: 23-5-115, 23-5-117, 23-5-118, 23-5-176, 23-5-177, MCA

REASON: Same as ARM 23.16.102.

23.16.503 APPLICATION PROCESSING FEE (1) ~~At the time~~ When a gambling operator license is submitted, the applicant shall pay a deposit on the license application processing fee in ~~the following~~ an amount: set forth in the application form.

~~(a) \$300 if the applicant is a nonprofit organization;~~

~~(b) \$800 if the applicant is a sole proprietorship; or~~

~~(c) \$1,000 if the applicant is a partnership or corporation.~~

(2) through (4) remain the same.

AUTH: 23-5-115, MCA

IMP: 23-5-177, MCA

REASON: The Gambling Code provides that the department must assess gambling operator license applicants a fee "to cover the actual cost incurred by the department in determining whether the applicant qualifies for licensure under 23-5-176." Mont. Code Ann. § 23-5-177(8), *see also* § 23-5-128 (distributor licenses), 23-5-129 (route operator licenses), 23-5-414 (manufacturers of bingo/keno equipment) and 23-5-625 (VGM manufacturers). Experience has demonstrated that the established fees frequently are inadequate to meet the department's actual expenses. To fulfill the statutory mandate to charge actual costs, the department will revise its fee schedule and include those fees in application forms.

23.16.1701 DEFINITIONS As used throughout this subchapter, the following definitions apply:

(1) through (7) remain the same.

(8) "Sponsor" means a ~~person~~ licensed gambling operator conducting a sports tab game by selling individual sports tabs or conducting a sports pool by selling chances, the sales of which occur on premises appropriately licensed for on-premises alcoholic beverages consumption as provided in 23-5-119, MCA.

(9) through (15) remain the same.

AUTH: 23-5-115, 23-5-512, MCA

IMP: 23-5-501, 23-5-502, 23-5-503, 23-5-512, MCA

REASON: The 2019 Legislature enacted SB 25, 2019 Mont. Laws, ch. 57, which eliminated an apparent conflict in the Gambling Code regarding who may offer sports pools. Under the former version, the code expressly restricted sports tabs to licensed establishments. With no similar statutory restriction on sports pools, the division interpreted the Gambling Code to permit nonlicensees to offer sports pools. Following enactment of SB 25, the Gambling Code limits both sports pools and

sports tabs to gambling operators with an appropriate alcoholic beverages license. This rule amendment is necessary to update the rule to reflect the recent legislative clarification. The amendment defines a sports pool or sports tab "sponsor," which is now restricted to gambling operators with alcoholic beverage licenses. The new statutory amendments permit a sponsor to conduct a sports pool or sports tab game and donate up to 50% of the net proceeds of the game to a nonprofit organization. These rule amendments reflect the new statutes.

23.16.1702 SPORTS POOL CARD (1) through (1)(b) remain the same.

(c) Any unsold spaces ~~at the time when~~ the numbers are assigned are considered purchased by the ~~person conducting the sports pool~~ sponsor and must be marked in a manner indicating that they may not be sold to another person.

(d) remains the same.

(e) Each competitor in the sports event must be assigned to either the horizontal or vertical axis of the master square before the beginning of each sports event, except when the ~~operator of the sports pool~~ sponsor publicly declares by rules in advance of any sales to award equal prizes based upon both winning number combinations (e.g., when the score is 37–29, the winners are those holding spaces corresponding to vertical 7 and horizontal 9, and vertical 9 and horizontal 7).

(2) through (4)(f) remain the same.

(g) predetermined intervals, as provided in ARM 23.16.1705(3), for which a prize will be awarded, if any; ~~and~~

(h) ~~the sponsor's name of the person conducting the sports pool;~~ and

(i) in the case of a sports pool conducted by a sponsor to support a nonprofit organization, the name of the nonprofit organization, the percentage of the pool proceeds to be donated, and the percentage of the pool proceeds to be awarded to the winner.

(5) through (7) remain the same.

(8) If the sports event is rescheduled, the ~~person conducting the sport pool~~ board sponsor may:

(a) and (b) remain the same.

(9) A sports pool card must be retained by the ~~person conducting the sports pool~~ sponsor for at least 90 days from the date of the sports event, or last event in a series of sports events, upon which the sports pool was based, whichever occurs first.

AUTH: 23-5-115, 23-5-512, MCA

IMP: 23-5-502, 23-5-503, 23-5-512, MCA

REASON: Same as ARM 23.16.1701.

23.16.1703 SALE OF SPORTS POOL CHANCES (1) and (2) remain the same.

(3) After sale of the chances begins, the ~~person conducting the sports pool~~ sponsor:

(a) through (5) remain the same.

AUTH: 23-5-115, 23-5-512, MCA
IMP: 23-5-502, 23-5-503, 23-5-512, MCA

REASON: Same as ARM 23.16.1701.

23.16.1704 DETERMINATION OF SPORTS POOL WINNERS - PRIZES

(1) through (3) remain the same.

(4) A nonprofit organization may ~~retain~~ receive up to 50 percent of the proceeds from the sale of chances in a sports pool if the nonprofit organization meets the requirements of 23-5-503, MCA.

AUTH: 23-5-115, MCA
IMP: 23-5-502, 23-5-503, 23-5-512, MCA

REASON: Same as ARM 23.16.1701.

23.16.1706 PROCEDURES FOR APPROVING VARIATIONS OF AUTHORIZED POOLS (1) remains the same.

(2) A person ~~requesting~~ qualified to be a sponsor may apply to the department for approval from the department for conducting of a variation of an authorized sports pool ~~shall submit by submitting~~ the following information ~~to the department:~~

(a) through (3) remain the same.

(4) After reviewing the proposed sports pool variation, the department shall notify in writing the ~~person submitting the variation~~ applicant of its intended action. ~~If the person desires a hearing he shall submit a written request to the department within 20 days. Upon receipt of the request, all proceedings must be conducted according to the Montana Administrative Procedure Act and the Attorney General's Model Rules of Procedure. An applicant desiring to challenge the department's action must proceed under ARM 23.16.108 and 23.16.203.~~

AUTH: 23-5-115, MCA
IMP: 23-5-512, MCA

REASON: Same as ARM 23.16.1701.

23.16.1712 DESIGN AND CONDUCT OF SPORTS TAB GAME (1) through (2)(h) remain the same.

(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; ~~and~~

(k) in the case of a sports tab game conducted by a sponsor to support a nonprofit organization, the name of the nonprofit organization, the percentage of the net sports tab game proceeds to be donated, and the percentage of the net sports tab game proceeds to be awarded to the winner.

(3) through (5) remain the same.

AUTH: 23-5-115, MCA
IMP: 23-5-501, 23-5-503, MCA

REASON: Same as ARM 23.16.1701.

23.16.1714 SPORTS TAB GAME PRIZES (1) through (4) remain the same.

(5) A sponsor who ~~is~~ conducts a sports tab game to support a nonprofit organization may ~~retain~~ donate up to 50% of the ~~cost~~ net proceeds of the sports tabs if the nonprofit organization meets the requirements of 23-5-503, MCA.

(6) remains the same.

AUTH: 23-5-115, MCA
IMP: 23-5-501, 23-5-502, 23-5-503, MCA

REASON: Same as ARM 23.16.1701.

23.16.1823 VIDEO GAMBLING MACHINE PERMITS – ELIGIBILITY, APPLICATION, RENEWAL, PRORATION (1) A gambling operator is eligible to apply for video gambling machine permits only if the operator holds an appropriate alcoholic beverage license and:

(a) the restrictions of 23-5-629 and [2019 Mont. Laws, ch. 336, § 3], MCA, do not apply; or

(b) the restrictions of 23-5-629, MCA, apply, and

(i) the department receives a written application from both common owners that provides revocable consent for a single common owner to apply for video gambling machine permits exclusive of the other; or

(ii) the operators are common owners, as defined in 23-5-629, MCA, but do not, in fact, operate in an interrelated manner as defined in (2) of this rule; or

(c) the resort area gambling machine permit restrictions of [2019 Mont. Laws, ch. 336, § 3], apply, but fewer than 20 gambling machines are currently permitted in the resort area.

(2) through (8) remain the same.

AUTH: 23-5-115, 23-5-621 MCA
IMP: 2019 Mont. Laws, ch. 336, § 3, 23-5-602, 23-5-611, 23-5-612, 23-5-621, 23-5-629, MCA

REASON: The 2019 Legislature enacted SB 358, 2019 Mont. Laws, ch. 336, which, among other things, repealed 16-4-202, MCA, and replaced it with a new statute capping the number of VGM permits allowed in a resort area. This amendment is necessary to correct the existing rule to include this statutory change.

23.16.1901 GENERAL SPECIFICATIONS OF VGMS (1) through (1)(d)(vii) remain the same.

(1)(d)(ix) is incorrectly numbered and is renumbered (1)(d)(viii).

(1)(d)(ix) through (1)(d)(xi) remain the same.

(xii) the VGM must clearly display "~~No Person Under the Age of 18 Years is Allowed to Play~~" a statement that no person under the age of 18 years is allowed to play;

(xiii) through (3) remain the same.

AUTH: 23-5-115, 23-5-602, 23-5-621, MCA

IMP: 23-5-136, 23-5-602, 23-5-603, 23-5-608, 23-5-610, 23-5-621, 23-5-637, MCA

REASON: This amendment is necessary to correct a clerical error in numbering (two subsections numbered (ix)).

Additionally, this amendment is necessary to remove the requirement that an underage gambling advisory must quote exact language. The language from the rule was meant to be an example of a compliant advisory – not language that must be duplicated. Under this rule, licensees who have deviated from the exact language appear to be in violation, though GCD has not enforced a strict word-for-word quotation. This amendment makes clear that roughly equivalent language complies with the rule.

23.16.1920 AARS, CTVS, AND VGM HARDWARE AND SOFTWARE SPECIFICATIONS (1) and (2) remain the same.

(3) Any device communicating with a VGM through a physical interface shall be tested and approved by the department before being offered for sale, sold, or installed/connected to any permitted VGM.

AUTH: 23-5-115, 23-5-621, MCA

IMP: 23-5-603, 23-5-621, 23-5-631, 23-5-637, MCA

REASON: In a recent division case, an unauthorized system interfaced with VGMs through an AARS in a manner prohibited by statute. That case alerted the division to the absence of plain authority prohibiting licensees or others from connecting external devices to VGMs whose effect on the VGM is untested. This rule is necessary to protect connecting devices whose behavior and effect on VGM play is unknown.

5. 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: Michael L. Fanning, 2550 Prospect Avenue, P.O. Box 201424, Helena, Montana, 59620-1424; telephone (406) 444-1971; fax (406) 444-9157; or e-mail j.saye@mt.gov and must be received no later than 5:00 p.m., October 7, 2019.

6. Michael L. Fanning, Department of Justice, has been designated to preside over and conduct this hearing.

7. 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 paragraph 5 above or may be made by completing a request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted by e-mail and United States mail on May 31, July 30, and will be contacted again on September 9, 2019.

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

/s/ Hannah Tokerud
Hannah Tokerud
Rule Reviewer

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

Certified to the Secretary of State August 27, 2019.