

MONTANA TAVERN TIMES

Amusement Games - August 1, 2012

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With fair time in full swing, it would seem to be an appropriate time to discuss amusement games. The Gambling Control Division does not regulate amusement games, but why not?

The Gambling Control Division in the Department of Justice is tasked with regulating all forms of public gambling except for the lottery and horse racing. As I have mentioned in previous articles, there are three elements that must be present for an activity to be considered gambling:

- Consideration (something of value risked)
- Chance/Risk (the activity)
- Reward (prize)

Amusement games must be based on *skill* rather than chance, so are missing one element of gambling. The definition of a skill-based amusement game is: "A substantial degree of skill is present if:

- 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;
- The number of tokens or tickets initially received by the average player would increase with repeated play of the game; and
- 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."

An extensive list and description of allowed amusement games can be found in 23-6-104, MCA. New games not on the list may be submitted to the Gambling Control Division for review to determine whether they meet the applicable standards.

While the majority of amusement games are more carnival-type games, there are also bar top amusement games that the division has periodically reviewed. The same definitions and regulations apply, but of particular note is 23.16.1924, ARM:

"Any machine which, in substance, simulates the game of **video poker, keno, bingo, or video line games**, without conforming to the requirements of the act or these rules and is placed in service for play by the public is *prohibited*."

On occasion, the division has found bar top amusement devices offering poker. Per the above stated administrative rule, those are prohibited and were required to be removed.

There are some permitting requirements for amusement games which are coordinated through the board of county commissioners and referenced in 23-6-103, MCA.

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, MCA.

For any questions or more information, please call the Gambling Control Division at (406) 444-1971 or email gcd@mt.gov. (References: 23-6-101 through 107, MCA; 23.16.1924 and 23.16.3801, ARM)