STATE OF MONTANA

DEPARTMENT OF JUSTICE

GAMBLING CONTROL DIVISION

GAMBLING LAWS

and

ADMINISTRATIVE RULES

under

DEPARTMENT OF JUSTICE JURISDICTION

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MONTANA CODE ANNOTATED
2015

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MONTANA CODE ANNOTATED 2015

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Chapter Cross-References - Gambling prohibited unless authorized by Legislature or the people, Art. III, sec. 9, Mont. Const.

ALCOHOL AND TOBACCO TITLE 16
CHAPTER 4
License Administration

16-4-414. Fingerprints required of applicants. An applicant for a license under this code, any person employed by the applicant as a manager, and, if the applicant is a corporation, each person holding 10% or more of the outstanding stock and each officer and director shall submit their fingerprints with the application to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation. The results of the investigation must be used by the department in determining the applicant's eligibility for a license.

CHAPTER 5
GAMBLING
2009

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

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

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

(c) is a party in processing gambling transactions.

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

(5) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns. 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 or more numbers may appear in each square, except for the center square, which may be considered a free play. Numbers must be 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.

(6) "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.

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

(8) "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.

(9) "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.

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

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

(12) "Distributor" means a person who:

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

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

(13) (a) "Gambling" or "gambling activity" means risking any money, credit, deposit, check, property, or 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.

(b) 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.

(c) The term does not include social card games of bridge, cribbage, hearts, pinochle, pitch, rummy, solo, and whist played solely for prizes of minimal value, as defined by department rule.

(14) "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.

(15) "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.

(16) (a) "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.

(b) The term does not mean:

(i) 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;

(ii) a promotional game of chance; or

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

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

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

(19) "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 Title 23, chapter 7, under part 5 of this chapter, in a bingo game approved by the department under part 4 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, craps table, or slot machine, except as provided in 23-5-153.

(20) "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 Title 23, chapter 4, and parts 2, 5, and 8 of this chapter;

(d) credit gambling; and

(e) internet gambling.

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

(b) The term does not include the operation of a simulcast facility or advance deposit wagering with a licensed advance deposit wagering hub operator allowed by Title 23, chapter 4, or the state lottery provided for in Title 23, chapter 7. If all aspects of the gaming are conducted on Indian lands in conformity with federal statutes and with administrative regulations of the national Indian gaming commission, the term does not include class II gaming or class III gaming as defined by 25 U.S.C. 2703.

(22) "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.

(23) "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.

(24) "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.

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

(26) "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.

(27) (a) "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.

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

(28) "Manufacturer" means a person who:

(a) 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;

(b) possesses gambling devices or components of gambling devices for the

purpose of testing them; or

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

(29) "Nonprofit organization" means a nonprofit corporation or nonprofit charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, senior citizens', or service organization established to support charitable activities, scholarships or educational grants, or community service projects.

(30) "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.

(31) "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.

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

(33) "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.

(34) "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.

(35) "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.

(36) "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.

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

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

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

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

(38) "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.

(39) (a) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner.

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

(40) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department. 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; amd. Sec. 7, Ch. 134, L. 2005; amd. Sec. 1, Ch. 201, L. 2005; amd. Sec. 1, Ch. 101, L. 2007; amd. Sec. 5, Ch. 379, L. 2007; amd. Sec. 1, Ch. 429, L. 2007; amd. Sec. 1, Ch. 355, L. 2009; amd. Sec. 1, Ch. 66, L. 2011; amd. Sec. 1, Ch. 61, L. 2015.

23-5-113. Department as criminal justice agency. The department is a criminal justice agency whose designated agents are granted peace officer status, with the power of search, seizure, and arrest. Agents are authorized to investigate gambling activities in this state regulated by parts 1 through 8 of this chapter and the rules of the department, to report violations to the county attorney of the county in which they occur, to investigate and report on activities related to liquor and tobacco administration under Title 16, and to act as appointed by the attorney general. History: En. Sec. 5, Ch. 642, L. 1989; amd. Sec. 2, Ch. 647, L. 1991; amd. Sec. 4, Ch. 398, L. 1993; amd. Sec. 8, Ch. 134, L. 2005; amd. Sec. 2, Ch. 61, L. 2015.

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

23-5-115. Powers and duties of department -- licensing. (1) The department shall administer the provisions of parts 1 through 8 of this chapter.

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

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

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

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

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

(7) The department may suspend, revoke, deny, or place a condition on a license issued under parts 1 through 8 of this chapter.

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

(9) The department shall assess, collect, and disburse any fees, taxes, or charges authorized under parts 1 through 8 of this chapter. History: En. Sec. 7, Ch. 642, L. 1989; amd. Sec. 3, Ch. 647, L. 1991; amd. Sec. 5, Ch. 398, L. 1993; amd. Sec. 3, Ch. 416, L. 1999; amd. Sec. 2, Ch. 355, L. 2009; amd. Sec. 3, Ch. 61, L. 2015.

23-5-116. Disclosure of information. (1) The department shall, upon request, disclose information concerning a current or former gambling license applicant or gambling licensee or any other person engaged in gambling or a gambling activity governed by parts 1 through 8 of this chapter, except:

(a) confidential criminal justice information, as defined in 44-5-103;

(b) personal information protected by an individual privacy interest;

(c) trade secrets, as defined in 30-14-402, specifically identified and for which there are reasonable grounds of privilege asserted by the party claiming the privilege; and

(d) information obtained in the tax reporting processes.

(2) Notwithstanding the limitations set forth in subsection (1), the department may disclose any 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.

(3) In the event of a tax delinquency or at the request of a video gambling

machine permitholder, the department shall inform the permitholder of the status of a licensed machine owner's tax payments for a video gambling machine located at the permitholder's place of business. History: En. Sec. 4, Ch. 647, L. 1991; amd. Sec. 1, Ch. 132, L. 1995; amd. Sec. 1, Ch. 178, L. 1995; amd. Sec. 4, Ch. 416, L. 1999; amd. Sec. 3, Ch. 424, L. 1999.

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: 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: 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) Except as provided in subsection (3), to be eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6, an applicant must own in the applicant's name:

(a) a retail all-beverages license issued under 16-4-201, but the owner of a license transferred after July 1, 2007, to a quota area pursuant to a department-conducted lottery under 16-4-204(1)(a) is not eligible to offer gambling;

(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;

(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.

(d) a retail beer and wine license issued under 16-4-109;

(e) a retail all-beverages license issued under 16-4-202; or

(f) a retail all-beverages license issued under 16-4-208.

(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.

(3) Lessees of retail all-beverages licenses issued under 16-4-208 or beer and wine licenses issued under 16-4-109 who have applied for and been granted a gambling operator's license under 23-5-177 are eligible to offer and may be granted permits for gambling authorized under Title 23, chapter 5, part 3, 5, or 6.

(4) A license transferee or a qualified purchaser operating pending final approval under 16-4-404(6) who has been granted a gambling operator's license under 23-5-177 may be granted permits for gambling under Title 23, chapter 5, part 3, 5, or 6. History: En. Sec. 5, Ch. 465, L. 1997; amd. Sec. 1, Ch. 263, L. 1999; amd. Sec. 9, Ch. 110, L. 2003; amd. Sec. 2, Ch. 277, L. 2007; amd. Sec. 49, Ch. 2, L. 2009.

23-5-123. Disposal of fines and penalties for violation of gambling laws. All fines and penalties collected by criminal, civil, or administrative process for a violation of a provision of parts 1 through 8 of this chapter or a rule of the department must be deposited in the state general fund. History: En. Sec. 1, Ch. 25, L. 1933; re-en. Sec. 11167.1, R.C.M. 1935; Sec. 94-2412, R.C.M. 1947; redes. 94-8-412 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 94-8-412; amd. Sec. 9, Ch. 642, L. 1989; amd. Sec. 8, Ch. 398, L. 1993; amd. Sec. 10, Ch. 13, Sp. L. August 2002; amd. Sec. 9, Ch. 134, L. 2005.

23-5-128. Distributor's license -- fees. (1) It is a misdemeanor for a person to conduct business as a distributor without first obtaining a distributor's license from the department.

(2) Except as provided in subsection (6), the department shall charge an annual license fee of $1,000 for issuing or renewing a distributor's license. The department shall retain the fee for administrative purposes.

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

(4) Except as provided in subsection (6), 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.

(6) The department may waive the license fee provided for in subsection (2) if the applicant is licensed as a manufacturer or route operator and may waive the application processing fee provided for in subsection (4) if the applicant is licensed as a

manufacturer, route operator, or operator. History: En. Sec. 14, Ch. 626, L. 1993.

23-5-129. Route operator's license -- fees. (1) It is a misdemeanor for a person to conduct business as a route operator without first obtaining a route operator's license from the department.

(2) Except as provided in subsection (6), the department shall charge an annual license fee of $1,000 for issuing or renewing a route operator's license. The department shall retain the fee for administrative purposes.

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

(4) Except as provided in subsection (6), 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.

(6) The department may waive the license fee provided for in subsection (2) if the applicant is licensed as a manufacturer or distributor and may waive the application processing fee provided for in subsection (4) if the applicant is licensed as a manufacturer, distributor, or operator. History: En. Sec. 15, Ch. 626, L. 1993.

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

23-5-131. Losses at illegal gambling may be recovered in civil action. A person, or the person's 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 the person's 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: 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; amd. Sec. 368, Ch. 56, L. 2009.

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 the person dismissed if the person has repaid to the person who suffered the loss or that person's 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: 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; amd. Sec. 369, Ch. 56, L. 2009.

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.

(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: 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; amd. Sec.

11, Ch. 13, Sp. L. August 2002.

23-5-137. Judicial review. (1) (a) A person aggrieved by a final order of the department may obtain a review of the order in district court by filing with the court, within 30 days after entry of the final order, a written petition requesting that the order be modified or set aside in whole or in part.

(b) A copy of the petition must be served upon the department at the same time. When the department receives the copy of the petition, it shall certify and file in court a copy of the filing, testimony, and other evidence upon which the final order was entered by the department. When these have been filed with the court, the court has exclusive jurisdiction to affirm, modify, enforce, or set aside the final order in whole or in part. A temporary cease and desist order from the department may remain in effect until a hearing has been held and a final order has been issued pursuant to 23-5-136.

(2) (a) The review must be conducted by the district court without a jury and must be confined to the record. In a case of alleged irregularity in procedure before the department not shown in the record, proof may be taken by the court. The court, upon request, shall hear oral argument and receive written briefs.

(b) The court may not substitute its judgment for that of the department as to the weight of the evidence on questions of fact. The court may affirm the decision of the department or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

(i) in violation of a constitutional or statutory provision;

(ii) in excess of the statutory authority of the department;

(iii) made upon unlawful procedure;

(iv) affected by other error of law;

(v) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record;

(vi) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or

(vii) inadequate because findings of fact, upon issues essential to the decision, were requested but not made.

(3) The commencement of proceedings under this section, unless specifically ordered by the court, may not operate as a stay of the department's final order. History: En. Sec. 12, Ch. 642, L. 1989.

23-5-138. Evidence in administrative proceedings. When conducting an administrative proceeding under parts 1 through 8 of this chapter, the department may consider hearsay evidence approved by the hearing examiner in a prehearing conference at which a determination is made that the evidence possesses sufficient guaranties of trustworthiness and does not involve a question of the credibility of a witness or of the credibility of a witness's subjective observations or analysis. History: En. Sec. 4, 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: 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 (6) 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, tested, or otherwise substantially modified in preparation for export from the state; and

(iii) he 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.

(6) An antique illegal gambling device may be possessed by a licensed retail business establishment for purposes of resale and not for operation as provided in 23-5-153. 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; amd. Sec.

10, Ch. 134, L. 2005; amd. Sec. 2, Ch. 429, L. 2007.

23-5-153. Possession and sale of antique illegal gambling devices. (1) For the purposes of this section, an antique illegal gambling device is an illegal gambling device that at any present time is more than 25 years old.

(2) Except as provided in 23-5-152(6) and subsection (3) of this section, an antique illegal gambling device may be possessed, located, and operated only in a private residential dwelling.

(3) (a) An antique illegal gambling device may be possessed or located for purposes of display only and not for operation:

(i) in a retail business establishment or public or private museum; or

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

(b) A licensed manufacturer-distributor or a person licensed under subsection (4) may possess antique illegal gambling devices for purposes of commercially selling or otherwise supplying the devices.

(4) A person other than a licensed manufacturer-distributor may not sell more than three antique illegal gambling devices in a 12-month period without first obtaining from the department a license for selling the antique illegal gambling devices. The fee for the license is $50, and the license is valid for 3 years from the date that the license is issued. The fee must be retained by the department for administrative purposes. The department may not issue a license under this subsection to a licensed operator.

(5) A person or entity legally possessing an antique illegal gambling device under subsection (2) or (3) may sell or otherwise supply a device to another person or entity who may legally possess an illegal gambling device.

(6) An antique illegal gambling device may not be operated for any commercial or charitable purpose. History: En. Sec. 1, Ch. 197, L. 1949; Sec. 94-2429, R.C.M. 1947; redes. 94-8-428 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 94-8-428; (2) thru (5)En. Sec. 1, Ch. 503, L. 1983; amd. Sec. 2, Ch. 503, L. 1983; amd. Sec. 1, Ch. 364, L. 1989; amd. Secs. 22, 73, Ch. 642, L. 1989; Sec. 23-5-104, MCA 1987; redes. 23-5-153 by Code Commissioner, 1989; amd. Sec. 28, Ch. 647, L. 1991; amd. Sec. 11, Ch. 134, L. 2005; amd. Sec. 3, Ch. 429, L. 2007.

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: 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.

23-5-155. Counterfeiting or defacing documents -- penalty. (1) A person commits the offense of counterfeiting or defacing a document when the person purposely or knowingly counterfeits, alters, or wrongfully displays a seal, decal, license, identification number or device, or other document issued by the department.

(2) A person convicted of the offense of counterfeiting or defacing a document is guilty of a felony and must be punished in accordance with 23-5-162. History: En. Sec. 16, Ch. 642, L. 1989; amd. Sec. 370, Ch. 56, L. 2009.

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: 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 debit 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 debit 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, credit card, or debit 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: 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; amd. Sec. 3, Ch. 355, L. 2009.

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: 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.

23-5-159. Illegal sale, assignment, lease, or transfer of license -- penalty. A licensee who purposely or knowingly sells, assigns, leases, or transfers a license or permit in violation of 23-5-110 is guilty of a misdemeanor punishable in accordance with 23-5-161. History: En. Sec. 34, Ch. 647, L. 1991.

23-5-160. Shaking dice for a drink or music or in a shake-a-day game. (1) It is legal for a customer in an establishment licensed for the sale of alcoholic beverages to be consumed on the premises to:

(a) shake or choose one or more dice, alone or with an owner or employee of the establishment, to determine whether the customer or the establishment shall pay for the customer's drink or to determine whether the customer or the establishment shall immediately pay a predetermined amount of money, not to exceed $2, for music from a jukebox in the establishment; or

(b) play the dice game commonly known as shake-a-day, in which a customer may once each day pay an amount of money predetermined by the establishment, but not more than 50 cents, and shake a number of dice predetermined by the establishment in an attempt to roll certain combinations simulating poker hands predetermined by the establishment. If one of the combinations is rolled, the customer may win merchandise or a portion or all of the money paid to play the game since the last winning combination was rolled. The establishment may, before a game begins, limit the amount that will be won and use the remaining money played on that game to start the pot for the next game, thus enhancing the incentive to play the next game in the early stages of the next game. All money paid to play games must be paid out as winnings. An establishment may offer to the public more than one shake-a-day game at any given time.

(2) Nothing in this section authorizes the dice game of craps or any other dice game not specifically described in this section. History: En. Sec. 1, Ch. 709, L. 1991; amd. Sec. 8, Ch. 626, L. 1993.

23-5-161. Criminal liabilities -- misdemeanor. A person who purposely or knowingly violates a provision of parts 1 through 8 of this chapter, the punishment of which is for a misdemeanor, shall upon conviction of a first offense be fined not more than $500. Upon a second conviction within 5 years of a first conviction, a person shall be fined not more than $1,000 or imprisoned in the county jail for not more than 6 months, or both. Upon a third conviction within 5 years of a second conviction, a person shall be fined not more than $10,000 or imprisoned in the county jail for not more than 1 year, or both. Upon a fourth conviction within 5 years of a third conviction, a person shall be fined not more than $10,000 or imprisoned in the county jail for not more than 1 year, or both, and the department shall revoke all licenses and permits the person holds under parts 1 through 8 of this chapter and the person is forever barred from receipt of any license or permit under this chapter. When 5 years have passed following a conviction, the record of that conviction may be made available only to criminal justice agencies or upon court order. History: En. Sec. 23, Ch. 642, L. 1989; amd. Sec. 11, Ch. 398, L. 1993.

23-5-162. Criminal liabilities -- felony. (1) A person who purposely or

knowingly violates a provision of parts 1 through 8 of this chapter, the punishment for which is a felony, may upon conviction be fined not more than $50,000 or imprisoned for not more than 10 years, or both, for each violation.

(2) In addition to any penalty imposed under subsection (1), the department shall revoke all licenses or permits issued to the person under parts 1 through 8 of this chapter and may not issue the person another license or permit under parts 1 through 8 of this chapter. History: En. Sec. 24, Ch. 642, L. 1989; amd. Sec. 32, Ch. 647, L. 1991; amd. Sec. 12, Ch. 398, L. 1993.

23-5-164. Payroll checks -- promotional activities prohibited. A licensee may not offer financial incentives or conduct promotional games of chance in connection with an offer to cash payroll checks on the premises. History: En. Sec. 23, Ch. 626, L. 1993.

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

23-5-177. Operator of gambling establishment -- license -- fee. (1) Except as provided in 23-5-310 and 23-5-410, 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) the person's fingerprints and, if the applicant is a corporation, the fingerprints of each person holding 10% or more of the outstanding stock of the corporation and of each officer and director of the corporation, to be used for a fingerprint and background check that must be used by the department in determining eligibility for a license;

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

(d) 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 23-5-176. 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: En. Sec. 11, Ch. 642, L. 1989; amd. Sec. 4, Ch. 473, L. 1991; amd. Sec. 6, Ch. 647, L. 1991; amd. Sec. 10, Ch. 110, L. 2003; amd. Sec. 1, Ch. 82, L. 2013.

23-5-178. Associated gambling business. (1) The department may adopt rules for the licensing of associated gambling businesses, including but not limited to accounting software vendors and video gambling machine recyclers.

(2) The licensing of an associated gambling business may consider only the legality of the product being sold and the suitability of the owners of the business as provided in 23-5-176.

(3) The annual fee for an associated gambling business license is $100. History: En. Sec. 8, Ch. 355, L. 2009.

23-5-180. Property subject to forfeiture. (1) The following property is subject to forfeiture:

(a) gambling implements, apparatus, paraphernalia, slips, tickets, and devices kept, possessed, or used in violation of a provision of this chapter;

(b) personal property not listed in subsection (1)(a), including but not limited to motor vehicles and money or negotiable instruments, kept, possessed, derived from, or used in violation of a provision of this chapter.

(2) Personal property is not subject to forfeiture unless the owner of the property had actual or constructive knowledge of and was a consenting party to the illegal act. History: En. Sec. 1, Ch. 134, L. 2005.

23-5-181. Petition -- summons -- service -- answer. (1) A peace officer that seizes personal property under 23-5-180 shall within 45 days of the seizure file a petition to institute forfeiture proceedings with the clerk of the district court of the county in which the seizure occurred. The clerk shall issue a summons, which the petitioning party shall by one of the following methods serve upon each owner or claimant of the personal property:

(a) upon an owner or claimant whose name and address are known, by personal service of a copy of the petition and summons as provided in the Montana Rules of Civil Procedure;

(b) upon an owner or claimant whose address is unknown but who is believed to have an interest in the property, by publication of the summons in one issue of a newspaper of general circulation in the county where the seizure occurred or, if there is no such newspaper, by publication in one issue of a newspaper of general circulation in an adjoining county and by mailing a copy of the petition and summons to the most recent address of the owner or claimant, if any, shown in the records of the department.

(2) Within 20 days after service under subsection (1), the owner or claimant of the seized property may file a verified answer to the allegations concerning the use of the property described in the petition. An extension of time for filing the answer may not be granted. Failure to answer within 20 days bars the owner or claimant from presenting evidence at any subsequent evidentiary hearing unless extraordinary circumstances exist. History: En. Sec. 2, Ch. 134, L. 2005.

23-5-182. Effect of failure to answer -- hearing date following answer. (1) If a verified answer to the petition is not filed within 20 days after service under 23-5-181, the court, upon motion, shall order the property forfeited to the state.

(2) If a verified answer is filed within 20 days after service under 23-5-181, the forfeiture proceedings must be set for hearing without a jury, to be held no sooner than 60 days after the answer is filed. Notice of the hearing must be given in the manner provided for service under 23-5-181. History: En. Sec. 3, Ch. 134, L. 2005.

23-5-183. Rebuttable presumption of forfeiture -- rebuttal of presumption. (1) There is a rebuttable presumption of forfeiture.

(2) An owner of the personal property who has a verified answer on file may rebut the presumption by proving that the property was not used for the purpose charged or that the use of the property occurred without the owner's knowledge or consent.

(3) A claimant of a security interest in the personal property who has a verified answer on file may preserve the security interest by proving that the security interest:

(a) is bona fide; and

(b) was created after a reasonable investigation of the moral responsibility, character, and reputation of the purchaser of the personal property and without knowledge that the personal property was going to be or was used for the purpose charged.

(4) Subsection (3)(b) does not apply to:

(a) a person who has a lien for making repairs or performing labor upon, furnishing supplies or materials for, or providing storage for or safekeeping of the personal property;

(b) a person doing business under any law of this state or the United States relating to financial institutions, as defined in 32-6-103, loan companies, or licensed pawnbrokers; or

(c) a person regularly engaged in the business of selling or of purchasing conditional sales contracts for that type of personal property. History: En. Sec. 4, Ch. 134, L. 2005.

23-5-184. Disposition of property. (1) If the court finds that the personal property was not used for the purpose charged or was used without the knowledge or consent of the owner, it shall order the property released to the owner.

(2) If the court finds that the personal property was used for the purpose charged and was used with the knowledge or consent of the owner, the personal property shall be disposed of as follows:

(a) If proper proof of a claim is presented at the hearing by the holder of a security interest, the court shall order the personal property released to the holder of the security interest if the amount due the holder is equal to or in excess of the value of the personal property as of the date of seizure. If the amount due the holder of the security interest is less than the value of the personal property, the personal property

may be sold at public auction by the law enforcement agency that seized the personal property in the manner provided by law for the sale of property under execution. The proceeds of the sale must first be used to pay the amount due to the holder of the security interest, with the remainder deposited in the account provided for in subsection (3). Instead of sale at public auction, the law enforcement agency may turn the personal property over to the holder of the security interest. The personal property may not be sold to an officer or employee of the law enforcement agency that seized the property or to a person related to an officer or employee by blood or marriage.

(b) If there is no security interest claimant and the law enforcement agency that seized the personal property wishes to retain the property for its official use, it may do so. If the personal property is not retained, it must be sold at public auction by the law enforcement agency that seized the personal property in the manner provided by law for the sale of property under execution and the proceeds of the sale must be deposited in the account provided for in subsection (3).

(c) If a security interest claimant has presented proper proof of a claim and the law enforcement agency that seized the personal property wishes to retain the property for its official use, it may do so provided it compensates the claimant in the amount of the security interest outstanding at the time of the seizure.

(3) Any forfeited negotiable instruments must be liquidated to cash. All forfeited cash and the proceeds of liquidated negotiable instruments must be deposited in a state special revenue account to the credit of the department of justice. The department may expend the money deposited in the account only for purposes of enforcement of gambling laws.

(4) In making a disposition of personal property, the court may take any action to protect the rights of innocent persons. History: En. Sec. 5, Ch. 134, L. 2005.

23-5-185. Pursuing violation by or determining suitability for licensure of person whose license has expired. The expiration of a license or permit issued under this chapter does not prevent the department from pursuing a violation by the person holding the license or permit or from determining that person's suitability for a future license or permit. History: En. Sec. 6, Ch. 134, L. 2005.

Part 2 - Calcutta Pools

23-5-221. Definition. As used in this part, "Calcutta pool" means a form of auction pool conducted by an organization authorized by the department. The Calcutta pool must be an auction pool in which:

(1) a person's wager is equal to the person's bid;

(2) the proceeds from the pool, minus administrative costs and prizes paid, are contributed to a charitable or nonprofit corporation, association, or cause;

(3) the rules of the pool are publicly posted;

(4) no more than one wager for each competitor is allowed;

(5) at least 50% of the total pool is paid out in prizes;

(6) persons may not bid or wager money on any elementary school or high school sports event; and

(7) the underlying event has more than two entrants. History: En. Sec. 1, Ch. 550, L. 1987; amd. Sec. 60, Ch. 642, L. 1989; Sec. 23-5-1101, MCA 1987; redes. 23-5-221 by Code Commissioner, 1989; amd. Sec. 371, Ch. 56, L. 2009.

23-5-222. Calcutta pools authorized. It is lawful to conduct or participate in a

Calcutta pool as defined in 23-5-221. An organization shall apply to the department on a form prescribed and furnished by the department for a Calcutta permit. The application must be accompanied by a fee of $25, which the department shall retain for administrative purposes. History: En. Sec. 2, Ch. 550, L. 1987; Sec. 23-5-1102, MCA 1987; redes. 23-5-222 by Code Commissioner, 1989; amd. Sec. 4, Ch. 61, L. 2015.

23-5-223. Penalty. A person who violates a provision of this part is guilty of a misdemeanor punishable pursuant to 23-5-161. History: En. Sec. 5, Ch. 550, L. 1987; amd. Sec. 61, Ch. 642, L. 1989; Sec. 23-5-1105, MCA 1987; redes. 23-5-223 by Code Commissioner, 1989.

23-5-224. Construction. Nothing in this part may be construed to permit a person to conduct a race meet or to bet on a race of a licensed race meet in violation of 23-4-201 and 23-4-301. History: En. Sec. 6, Ch. 550, L. 1987; Sec. 23-5-1106, MCA 1987; redes. 23-5-224 by Code Commissioner, 1989.
Part 3. Card Games Act

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) A permit is not required for social games played for prizes of minimal value, as defined by department rule.

(c) 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) he 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: 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; amd. Sec. 2, Ch. 101, L. 2007; amd. Sec. 5, Ch. 61, L. 2015.

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: 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 keep on the dealer's person and display upon request the dealer's license when 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 a temporary license:

(i) may be issued at a local department office or at another public location designated by the department; and

(ii) may only be issued upon the payment of the license application fee and submission of an application, required fingerprints, and proof that the applicant for a temporary license has a verifiable offer of employment from a licensed operator or card room contractor. History: En. Sec. 28, Ch. 642, L. 1989; amd. Sec. 35, Ch. 647, L. 1991; amd. Sec. 2, Ch. 317, L. 1993; amd. Sec. 3, Ch. 101, L. 2007.

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: 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 23-5-117, 23-5-177, 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: En. Sec. 2, Ch. 473, L. 1991; amd. Sec. 2, Ch. 82, L. 2013.

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: En. 62-703 by Sec. 3, Ch. 293, L. 1974; R.C.M. 1947, 62-703; amd. Sec. 26, Ch. 642, L. 1989.

23-5-312. Prizes not to exceed $800. (1) A prize for an individual live card game may not exceed the value of $800. 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: 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; amd. Sec. 1, Ch. 64, L. 2013.

23-5-313. Rules of play to be posted -- rake-off approved. (1) A licensed operator shall prominently display the following information within the sight of the players at a live card game table:

(a) rules governing the conduct of each game;

(b) notice of the maximum percentage rake-off; and

(c) rules governing the prohibition of credit gambling.

(2) The department may adopt rules specifying the size, display, and content of rules as provided in this part and the manner of taking the rake-off. 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: En. 62-705 by Sec. 5, Ch. 293, L. 1974; R.C.M. 1947, 62-705; amd. Sec. 33, Ch. 642, L. 1989; amd. Sec. 4, Ch. 101, L. 2007.

23-5-317. Tournaments. (1) (a) A licensed operator who has a permit for placing at least one live card game table on the operator's premises may apply to the department for an annual large-stakes live card game tournament permit. A large-stakes tournament permit allows the operator to conduct up to 16 large-stakes tournaments a year on the operator's premises.

(b) The department shall charge an annual fee of $120 for a large-stakes tournament permit. The permit fee may not be prorated and must be retained by the department for administrative purposes.

(c) A large-stakes tournament may not be conducted for more than 5 consecutive days.

(d) The operator shall notify the department at least 5 days before the start of a large-stakes tournament. If a tournament will be conducted on the premises of more than one licensed operator, each operator shall notify the department at least 5 days before the start of the tournament. Except as provided in subsection (1)(f), each large-stakes tournament is counted toward each operator's annual 16-tournament limit.

(e) An operator issued a large-stakes tournament permit may participate with other large-stakes tournament permitholders to conduct a progressive large-stakes tournament in which the ultimate prize is not awarded until the final round of the tournament is completed.

(f) An operator issued a large-stakes tournament permit may conduct up to three charitable large-stakes tournaments a year that are not counted toward the operator's annual 16-tournament limit. The operator shall notify the department of the charitable tournament at least 5 days before the start of the tournament.

(g)) An operator may charge an entry fee for a large-stakes tournament, which

may include a fee to cover expenses incurred from conducting the tournament. The total amount paid by a participant to enter a large-stakes tournament, including any additional purchase of chips or other payment during the tournament, may not exceed $1,875. A participant in a large-stakes tournament who has been eliminated from competition during the tournament may reenter the tournament by paying an additional fee if the tournament rules allow the participant to reenter the tournament.

(h) The prize for a large-stakes tournament may include the right to participate in another tournament if the value of a seat in the higher-level tournament equals the value of the expected top prize for the tournament.

(2) (a) A licensed operator who has a permit for placing at least one live card game table on the operator's premises may apply to the department for an annual small-stakes live card game tournament permit. A small-stakes tournament permit allows the operator to conduct daily small-stakes tournaments on the operator's premises.

(b) The department shall charge an annual fee of $500 for a small-stakes tournament permit. The permit fee may not be prorated and must be retained by the department for administrative purposes.

(c) An operator may charge an entry fee for a small-stakes tournament, which may include a fee to cover expenses incurred from conducting the tournament. The total amount paid by a participant to enter a small-stakes tournament may not exceed $80. A participant in a small-stakes tournament may not repurchase or add chips or reenter the tournament after elimination.

(d) A small-stakes tournament permitholder may place one additional live card table on the permitholder's premises, which may be used only for a small-stakes tournament. The tournament may be conducted on permitted card tables and the additional tournament card table.

(3) Tournament participants must be provided with a copy of the tournament rules before the start of a large-stakes or small-stakes tournament. A copy of the rules must be posted in a conspicuous location in each area where the tournament is conducted.

(4) Permits for the placement of additional live card game tables as provided in 23-5-306 are not required for:

(a) additional tables authorized under a large-stakes tournament permit; or

(b) an additional small-stakes tournament table authorized under subsection (2)(d).

(5) A person must be present on the premises during a large-stakes or small-stakes 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 large-stakes or small-stakes poker or panguingue tournament.

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

(8) At least 50% of the total amount of the entrance fees for any large-stakes or small-stakes tournament that is represented as a charitable tournament must be paid to a charitable, educational, or recreational nonprofit organization.

(9) A rake-off may not be taken during a large-stakes or small-stakes tournament card game.

(10) 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: En. Sec. 37, Ch. 647, L. 1991; amd. Sec. 11, Ch. 626, L. 1993; amd. Sec. 5, Ch. 101, L. 2007; amd. Sec. 2, Ch. 64, L. 2013.

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) he 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 $800 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: En. Sec. 1, Ch. 317, L. 1993; amd. Sec. 3, Ch. 64, L. 2013.

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: 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.

23-5-324. 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 a proposed lease agreement with a licensed operator. History: En. Sec. 9, Ch. 647, L. 1991; amd. Sec. 4, Ch. 355, L. 2009.

23-5-325. Regulation of house players. (1) The department shall provide rules to regulate the use of house players by licensed operators and licensed card room contractors.

(2) House players may be used only for the purpose of starting a card game or maintaining a sufficient number of players in a card game.

(3) Any chips or money advanced by an operator, card room contractor, or dealer to a house player may not become a debt of the player.

(4) The operator, card room contractor, or dealer shall identify house players upon request. History: En. Sec. 7, Ch. 101, L. 2007.

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

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: 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: 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: 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: 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 the licensee's 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 the licensee 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: En. Sec. 38, Ch. 642, L. 1989; amd. Sec. 40, Ch. 647, L. 1991; amd. Sec. 372, Ch. 56, L. 2009.

23-5-410. Exemption from certain sections. A senior citizen center is exempt from 23-5-117, 23-5-177, 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: En. Sec. 3, Ch. 473, L. 1991; amd. Sec. 3, Ch. 82, L. 2013.

23-5-412. Card prices and prizes -- exception. (1) Except as provided in subsection (2):

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

(b) a prize may not exceed the value of $100 for each individual keno card.

(2) 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.

(3) 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.

(4) A bingo session must last at least 2 consecutive hours or 20 or more consecutive bingo games. A bingo session may not begin less than 2 hours after the conclusion of a prior session conducted on the same premises.

(5) Except as provided in subsections (6), (7), and (9):

(a) the price for an individual bingo card may not exceed $1;

(b) a prize may not exceed the value of $800 for each individual bingo game, and total bingo prize payouts may not exceed $3,000 during a bingo session.

(6) A variation of the game of bingo, as approved by the department, in which prizes may be awarded for each winning bingo pattern on a card is permissible if:

(a) no more than 50 cents is wagered on each bingo pattern; and

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

(7) Subject to the department's approval, an operator licensed to conduct live bingo games may conduct up to five special bingo sessions a year, in which a bingo prize may not exceed the value of $800 and the total bingo prize payouts may not exceed $5,000 during the special bingo session. At least 30 days must elapse between the conclusion of one special bingo session and the beginning of the next special bingo session. Before the start of a special bingo session, the operator shall submit to the department an application for a special bingo session event permit. The application must be accompanied by a $10 fee, which the department shall retain for administrative purposes. An exempt charitable organization under 23-5-406 that offers live bingo activities is not eligible for a special bingo session event permit.

(8) Any bingo card other than a standard card with 5 columns and 25 squares with 1 number appearing in each square or any card that allows the player to print numbers on the card must be approved by the department prior to being offered for play.

(9) An exempt charitable organization under 23-5-406 that conducts live bingo activities at a place other than its main premises or place of operations:

(a) is not limited to a maximum per-session prize payout limit;

(b) may not charge more than 50 cents for an individual bingo card; and

(c) may not award a bingo prize that exceeds $100 in value.

(10) If a licensed operator conducts a promotional game of chance involving bingo or keno, the value of the prize awarded as a result of the promotional game of chance may not exceed $100.

(11) It is unlawful to combine, in any manner, any bingo or keno games so as to increase the ultimate value of the prize. Bingo and keno prizes may be paid in either tangible personal property or cash or in any combination of tangible personal property and cash. 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; amd. Sec. 12, Ch. 134, L. 2005; amd. Sec. 5, Ch. 355, L. 2009; amd. Sec. 2, Ch. 66, L. 2011.

23-5-413. Raffle prizes -- investigations -- rulemaking. (1) (a) The department shall investigate all violations of this part.

(b) The department may adopt rules to require recordkeeping for receipts and payouts under this part and to establish procedures to ensure the fair selection of winners.

(2) (a) 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.

(b) The value of a prize awarded for an individual ticket for a raffle conducted by a person or an organization may not exceed $5,000. Prizes may not be combined in any manner to increase the ultimate value of the prize awarded for each ticket.

(c) The provisions of subsections (2)(a) and (2)(b) do not apply to a nonprofit organization, a college, a university, a public school district as provided in 20-6-101 and 20-6-701, or a nonpublic school as described in 20-5-102(2)(e). The proceeds from the sale of tickets for a raffle conducted by a nonprofit organization, college, university, or school district may be used only for charitable purposes or to pay for prizes and may not be used for the administrative costs of conducting the raffle.

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

(b) The sale of raffle tickets may not be conducted over the internet. All raffle announcements or advertisements conducted over the internet must include this sale restriction, the name of the organization offering the raffle, and all raffle terms. 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; amd. Sec. 6, Ch. 355, L. 2009.

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: 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.

23-5-424. 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: 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: 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: En. Sec. 13, Ch. 647, L. 1991.

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: 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 or series of sports events as provided in 23-5-503. 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; amd. Sec. 6, Ch. 61, L. 2015.

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: 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 $25, and the total amount paid to all winners of any individual sports pool or sports tab game may not exceed the value of $2,500. 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: 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; amd. Sec. 1, Ch. 80, L. 2013.

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

23-5-512. 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: 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: En. Sec. 2, Ch. 13, L. 1997.

Part 6. Video Gaming Machine Control Law

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) (a) "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 uses a video display and microprocessors and, by the skill of the player, by chance, or by both, allows the player to receive free games, bonus games, or credits that may be redeemed for cash.

(b) The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(3) (a) "Bonus game" means a game other than a bingo, poker, keno, or video line game that is offered as a prize for playing and achieving a defined outcome by playing a bingo, poker, keno, or video line game. The term includes a game that allows a player to win free credits, free games, or a multiplier of credits already won or to move to an accelerated pay table for the play of a bingo, poker, keno, or video line game. A bonus game must make available to the player a display of the rules for the bonus game.

(b) The term does not include a game that allows the player to wager money or credits on the game or to lose money or credits already won. The term does not include a game by which the bonus game would become the predominant game rather than a bingo, poker, keno, or video line game. The department shall by administrative rule define the conditions that would cause a bonus game to be the predominant game. The term does not include a game that displays or simulates a gambling activity that is not legal under state law.

(4) "Electronically captured data" means video gambling machine accounting information and records of video gambling machine events, in electronic form, that are automatically recorded and communicated to the department through an approved

automated accounting and reporting system.

(5) "Gross income" means money put into a video gambling machine minus credits paid out in cash.

(6) (a) "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 uses a video display and microprocessors and, by the skill of the player, by chance, or by both, allows the player to receive free games, bonus games, or credits that may be redeemed for cash.

(b) The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(7) "Licensed machine owner" means a licensed operator or route operator who owns a video gambling machine for which a permit has been issued by the department.

(8) "Multigame" means a combination of at least two or more approved types of games, including bingo, poker, keno, or video line games, within the same video gambling machine cabinet if the video gambling machine cabinet has been approved by the department.

(9) "Permitholder" means a licensed operator on whose premises is located one or more video gambling machines for which a permit has been issued by the department.

(10) (a) "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, 5-card stud, 7-card stud, or hold 'em, as defined by rules of the department. The machine uses a video display and microprocessors and, by the skill of the player, by chance, or by both, allows the player to receive free games, bonus games, or credits that may be redeemed for cash.

(b) The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(11) (a) "Video line game" means a video line game as defined by rules of the department and approved by the department. A video line game uses a video display and microprocessors and, by the skill of the player, by chance, or by both, allows the player to receive free games, bonus games, or credits that may be redeemed for cash. Video line games may be offered only in a multigame video gambling machine cabinet.

(b) The term does not include a game played on a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value. 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; amd. Sec. 4, Ch. 424, L. 1999; amd. Sec. 1, Ch. 210, L. 2003; amd. Sec. 13, Ch. 134, L. 2005; amd. Sec. 1, Ch. 319, L. 2005; amd. Sec. 1, Ch. 121, L. 2011.

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, poker, keno, video line, and multigame video gambling 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) A video line game approved by the department for play must be made

available to any licensed machine owner.

(4) A manufacturer may not charge a fee for the use of a bingo, poker, keno, video line, or multigame video gambling machine on a daily basis or any other periodic basis.

(5) A licensed operator, distributor, route operator, or manufacturer is prohibited from referencing games not authorized under this title in advertising, promoting, or inducing play of a video gambling machine. The department shall further define by rule what advertising is allowed under this subsection.

(6) 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: 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; amd. Sec. 2, Ch. 121, L. 2011.

23-5-607. Expected payback -- verification. (1) The department shall prescribe the expected payback value of credit awarded to be at least 80% of the value of credit played for each bingo, poker, keno, and video line game in a video gambling machine. The credit ratio may not be greater than 92% for each video line game.

(2) Each video gambling machine must have an electronic accounting device that the department may use to verify the winning percentage. 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; amd. Sec. 3, Ch. 121, L. 2011.

23-5-608. Limitation on amount of money played and value of prizes -- payment of credits in cash -- ticket voucher expiration -- rules. (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 $800 a game.

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

(3) The department may establish by rule a reasonable time period during which a player shall present a valid ticket voucher to the licensee for payment before the voucher may be considered expired and invalid. 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; amd. Sec. 3, Ch. 66, L. 2011; amd. Sec. 4, Ch. 121, L. 2011.

23-5-610. Video gambling machine gross income tax -- records -- distribution -- quarterly statement and payment. (1) A licensed machine owner shall pay to the department a video gambling machine tax of 15% of the gross income from each video gambling machine issued a permit under this part. A licensed machine owner 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 machine owner shall keep a record of the gross income from each video gambling machine issued a permit under this part 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) For each video gambling machine issued a permit under this part, a licensed machine owner shall, within 15 days after the end of each quarter and in the manner prescribed by the department, complete and deliver to the department a statement showing the total gross income, 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) The department shall, in accordance with the provisions of 17-2-124, forward the tax collected under subsection (3) of this section to the state treasurer for deposit in the general fund. 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; amd. Secs. 5, 6, Ch. 424, L. 1999; amd. Sec. 1, Ch. 198, L. 2001; amd. Sec. 143, Ch. 574, L. 2001; amd. Sec. 2, Ch. 210, L. 2003; amd. Sec. 2, Ch. 319, L. 2005; amd. Sec. 25, Ch. 475, L. 2007.

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 multigame gambling machines as were operated on the premises on that date may be granted to the person who held the permit for that number of 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, poker, keno, video line, or multigame video gambling 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: 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; amd. Sec. 3, Ch. 210, L. 2003; amd. Sec. 3, Ch. 319, L. 2005; amd. Sec. 5, Ch. 121, L. 2011.

23-5-612. Machine permits -- fees. (1) The department, upon payment by the operator 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 $240 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 $140 of the annual permit fee or for a prorated fee shall deposit $105 for three quarters, $70 for two quarters, and $35 for one quarter 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: 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; amd. Sec. 1, Ch. 29, L. 2003; amd. Sec. 2, Ch. 471, L. 2003; amd. Sec. 1, Ch. 528, L. 2005; amd. Sec. 4, Ch. 64, L. 2013.

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

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

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

23-5-621. Rules. (1) The department shall adopt rules that:

(a) implement 23-5-637;

(b) describe the video gambling machines authorized by this part and state the specifications for video gambling machines authorized by this part, including a description of the images and the minimum area of a screen that depicts a bingo, poker, keno, or video line game;

(c) allow video gambling machines to be imported into this state and used for the purposes of trade shows, exhibitions, and similar activities;

(d) allow each video gambling machine to offer any combination of approved bingo, poker, keno, and video line games within the same video gambling machine cabinet if the owner of the video gambling machine has received approval to report video gambling machine information using an approved automated accounting and reporting system or has entered into an agreement with the department to use an approved automated accounting and reporting system;

(e) allow, on an individual license basis, licensed machine owners and operators of machines that use an approved automated accounting and reporting system to:

(i) electronically acquire and use for an individual licensed premises the information and data collected for business management, accounting, and payroll purposes; however, the rules must specify that the data made available as a result of an approved automated accounting and reporting system may not be used by licensees for player tracking purposes; and

(ii) acquire and use, at the expense of a licensee, a department-approved site controller;

(f) minimize, whenever possible, the recordkeeping and retention requirements for video gambling machines that use an approved automated accounting and reporting system.

(2) The department's rules for an approved automated accounting and reporting system must, at a minimum:

(a) provide for confidentiality of information received through the approved automated accounting and reporting system within the limits prescribed by 23-5-115(8) and 23-5-116;

(b) prescribe specifications for maintaining the security and integrity of the approved automated accounting and reporting system;

(c) limit and prescribe the circumstances for electronic issuance of video gambling machine permits and electronic transfer of funds for payment of taxes, fees, or penalties to the department;

(d) describe specifications and a review and testing process for approved automated accounting and reporting systems to be used by licensed operators, including the requirements for electronically captured data; and

(e) prescribe the frequency of reporting from an approved automated accounting and reporting system and provide exceptions for geographically isolated video gambling operators. History: En. Sec. 49, Ch. 642, L. 1989; amd. Sec. 7, Ch. 424, L. 1999; amd. Sec. 4, Ch. 210, L. 2003; amd. Sec. 14, Ch. 134, L. 2005; amd. Sec. 4, Ch. 319, L. 2005; amd. Sec. 7, Ch. 355, L. 2009; amd. Sec. 6, Ch. 121, L. 2011.

23-5-622. Tampering with video gambling machine -- penalty. (1) A person commits the offense of tampering with a video gambling machine if the person 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: En. Sec. 57, Ch. 642, L. 1989; amd. Sec. 373, Ch. 56, L. 2009.

23-5-625. Video gambling machine manufacturer -- license -- fees -- restrictions. (1) It is unlawful for any person to assemble, produce, test, 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: 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; amd. Sec. 15, Ch. 134, L. 2005.

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

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 state 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) must be deposited in an account in the state special revenue fund and used to administer this part and for other purposes provided by law.

(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: 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; amd. Sec. 2, Ch. 190, L. 2003; amd. Sec. 2, Ch. 327, L. 2005.

23-5-637. Approved automated accounting and reporting systems. (1) For the purposes of performing its duties under this chapter, minimizing regulatory costs, simplifying the reporting of video gambling machine revenue data, preserving the integrity of video gambling machines within its jurisdiction, lessening administrative and recordkeeping burdens for licensed machine owners and licensed operators and the department, and enhancing the management tools available to the industry and the state, the department may approve an automated accounting and reporting system for video gambling machines.

(2) Except as provided in subsection (5) or as provided in an agreement for multiple-game software, utilization of an approved automated accounting and reporting system is voluntary for licensed machine owners and licensed operators who hold a valid current license.

(3) An approved automated accounting and reporting system must provide for the recording and entry of video gambling machine permit and tax information and for the electronic transfer of funds through the use of web entry technology, the internet, or direct electronic communication with the department.

(4) A permit may not be issued for a video gambling machine manufactured after July 1, 2005, that is not manufactured in a manner specifically designed to comply with communications standards adopted by department rules.

(5) If a permitholder voluntarily utilizes an approved automated accounting and reporting system for one or more video gambling machines at a premises, all video gambling machines on the premises that utilize the approved system, including video gambling machines replacing video gambling machines that utilize the approved system, must continue to use the approved system as long as video gambling machines are operated on the premises. History: En. Sec. 1, Ch. 424, L. 1999; amd. Sec. 5, Ch. 210, L. 2003; amd. Sec. 5, Ch. 319, L. 2005.

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

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

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) (a) Except as provided in subsection (1)(b), a casino night may not last more than 12 consecutive hours.

(b) A casino night may be split into two separate, 6-consecutive hour sessions

that may not be held on the same day but must be held in the same calendar year.

(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 or cash 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.

(5) If cash prizes are awarded, the prizes for bingo and keno may not exceed the prize limits established in 23-5-412. Live card games must be limited to those authorized in 23-5-311, and the prizes may not exceed the prize amount established in 23-5-312.

(6) A casino night may not include a card game tournament provided for in 23-5-317. History: En. Sec. 18, Ch. 647, L. 1991; amd. Sec. 1, Ch. 171, L. 1999; amd. Sec. 6, Ch. 101, L. 2007.

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

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: 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, a bidding process, or by selection from a roster prepared by the parimutuel network coordinator.

(3) Except for fantasy sports leagues operated under Title 23, chapter 4, 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 league 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) The roster of eligible participants prepared by the parimutuel network must be provided to each league member.

(7) Rules governing the conduct of the fantasy sports league must be provided in writing to each league member. History: En. Sec. 21, Ch. 647, L. 1991; amd. Sec. 8, Ch. 387, L. 2007.

23-5-802. Fantasy sports leagues authorized. It is lawful to conduct or participate in a fantasy sports league, including a fantasy sports league that is operated under a parimutuel system of wagering regulated under Title 23, chapter 4. It is unlawful to wager on a fantasy sports league by telephone or by the internet. History: En. Sec. 22, Ch. 647, L. 1991; amd. Sec. 9, Ch. 387, L. 2007.

23-5-805. Payouts -- administrative fees charged by commercial establishments. (1) Except as provided in subsection (2)(b), 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) (a) Except as provided in subsection (2)(b), 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.

(b) The parimutuel network, as defined in 23-4-101, shall distribute all funds wagered on fantasy sports leagues in any wagering pool pursuant to the requirements of 23-4-302 and 23-4-304. History: En. Sec. 23, Ch. 647, L. 1991; amd. Sec. 10, Ch. 387, L. 2007.

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 Title 23, chapter 4, except for parimutuel facilities, parimutuel networks, or simulcast parimutuel networks conducting fantasy sports leagues, or under Title 23, chapter 5, part 2 or 5. History: En. Sec. 24, Ch. 647, L. 1991; amd. Sec. 11, Ch. 387, L. 2007.

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

Part 9 reserved

Part 10
State Lottery
(Renumbered. Sec. 57, Ch. 647, L. 1991)

Part 11
Calcutta Pools
(Renumbered and Repealed.
Sec. 68, 72, Ch. 642, L. 1989)

Part Compiler's Comments - Sections Renumbered and Repealed:

23-5-1101. Renumbered 23-5-221.
23-5-1102. Renumbered 23-5-222.
23-5-1103. Repealed. Sec. 68, Ch. 642, L. 1989.
23-5-1104. Repealed. Sec. 68, Ch. 642, L. 1989.
23-5-1105. Renumbered 23-5-223.
23-5-1106. Renumbered 23-5-224.

Histories of Repealed Sections:

23-5-1103. En. Sec. 3, Ch. 550, L. 1987.

23-5-1104. En. Sec. 4, Ch. 550, L. 1987.

Chapter 6
AMUSEMENT GAMES
Part 1 - General

23-6-101. Definitions.
23-6-102. Requirements for games.
23-6-103. Permits.
23-6-104. Amusement games allowed.
23-6-105. Authority to inspect.
23-6-106. Gambling and illegal gambling devices and enterprises prohibited.
23-6-107. Violations.

Chapter Cross-References - Gambling prohibited unless authorized by Legislature or the people, Art.III, sec. 9, Mont. Const.

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: 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: 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: 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) t-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.

(f) 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: 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: 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: 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: En. Sec. 7, Ch. 523, L. 1991.

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Subchapter 1

Gambling Licenses, Generally

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

(1) "Accounting system vendor" means a person who sells or leases an accounting system to a licensed gambling manufacturer, route operator, or gambling operator to be utilized as an approved automated accounting and reporting system, as provided in 23-5-637, MCA.

(2) "Control" means the power to cause or direct management and policies.

(3) "Day" means the period of time, or any portion thereof, between any midnight and the midnight following.

(4) "Dealer" means a person who:

(a) deals playing cards in a card game of panguingue or poker; and

(b) may accept wagers and dispense winnings in a card game of panguingue or poker.

(5) "Financing" means investments, loans, deferred payment agreements for the purchase of real property (or tangible and intangible personal property or past or prospective services), and gifts, except tangible personal property intended and used for decoration or display on the premises.

(6) "Gambling license" means any license issued by the department pursuant to Title 23, chapter 5, MCA.

(7) "Institutional lender" means a person who:

(a) has been authorized under Title 32, chapters 1, 2, 3, and 4, MCA, to receive money on deposit or transact a trust or investment business, including banks, savings and loans, credit unions, investment companies, and development corporations; or

(b) is identified as a regulated lender in 31-1-111, MCA, which, in addition to lenders identified in (7)(a), includes bank holding companies, consumer loan licensees owned by bank holding companies, mutual or stock insurance companies, and federal and state agencies authorized to lend money.

(8) "Lease agreement" means a contract that transfers the right to possess and use of property for a term, in return for consideration. The terms of the lease may not transfer an ownership interest in the licensed gambling operation as defined in this rule.

(9) "Loan" means a written contract by which one delivers a sum of money or other thing of value to another and the latter agrees to return at a future time a sum equivalent to that which he/she borrowed.

(10) "Management agreement" means a contract between the licensee and manager(s). The agreement may not transfer an ownership interest in the licensed operation or limit or relieve the licensee of record from the responsibilities of ownership. Bonuses or bonus-type payments based on job performance are not considered ownership interests if they are provided in conjunction with a reasonable salary base and do not assign or transfer an ownership interest.

(11) "Manager" means a person employed or authorized by the licensee to supervise personnel or business functions of the licensed operation.

(12) "Manufacturer of electronic live bingo or keno equipment" means a person who produces from raw materials or subparts a completed piece of electronic equipment intended for use in the game of live bingo or keno. The term does not include a person who solely installs or connects electronic live bingo or keno equipment on an operator's premises.

(13) "Manufacturer of gambling devices not legal in Montana" means a person who assembles a completed or uncompleted piece of equipment intended for use as a gambling device which is not specifically authorized in Montana but is lawful in another jurisdiction.

(14) "Noninstitutional lender" or "noninstitutional source" means:

(a) a person other than an institutional lender as defined in (7) of this rule; or

(b) a consumer lender who is not a subsidiary of a bank or bank holding company who loans money or supplies financing to an applicant, licensee, or the owner of an applicant or licensee.

(15) "Owner" or "owner of an interest" means a person with a right to share in the profits, losses, or liabilities of a gambling operation. The term "ownership interest" is synonymous with "owner" or "owner of an interest". The term "owner" or "owner of an interest" does not include route operators with a right to share in proceeds from video gambling machines they have leased to location operators. "Owner" or "owner of an interest" includes:

(a) loan guarantors who make actual debt payments for or contribute capital to a gambling operation;

(b) any person whose compensation or contractual rights in relation to the licensed gambling operation are based in whole or part on a percentage of gross or net sales; or

(c) a holding company, defined under this rule as a corporation operated for the purpose of owning the stocks of other corporations and controlling the operations of these corporations.

(16) "Person" means either a natural or an artificial person, and includes all partnerships, corporations, limited liability companies, associations, clubs, fraternal orders, religious organizations, or charitable organizations. A separate person exists when a partner in a partnership changes, any member(s) in a limited liability company changes, any shareholder(s) in a closed corporation changes, or 5% or more of the interest in a publicly traded corporation is transferred to or from a single individual.

(17) "Security interest" means an interest that is reserved or created by an agreement that secures payment or performance of an obligation.

(18) "Stranger to the license" means a person who does not own an interest in the licensed gambling operation.

(19) "Transfer" means to sell, assign, lease, or otherwise convey.

(20) "Working day" means every day except Saturdays, Sundays and all state legal holidays enumerated under 1-1-216, MCA. (History: 23-5-115, 23-5-621, MCA; IMP, 23-5-112, 23-5-115, 23-5-118, 23-5-176, 23-5-629, 23-5-637, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; TEMP, AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2000 MAR p. 1638, Eff. 6/30/00; AMD, 2006 MAR p. 1735, Eff. 7/7/06; AMD, 2009 MAR p. 2480, Eff. 12/25/09; AMD, 2014 MAR p. 1505, Eff. 7/11/14.)

23.16.102 APPLICATION FOR GAMBLING LICENSE - LICENSE FEE

(1) Every person working or acting as a card dealer, operator, route operator, card room contractor, manufacturer, distributor, manufacturer of electronic live bingo or keno equipment, sports tab game seller, accounting system vendor, or manufacturer of illegal devices, as defined by Title 23, chapter 5, MCA, and by these rules, any nonprofit organization, or any other person required by statute or rule to hold a license issued by the department, must possess a valid license issued by the department. All licenses expire annually at midnight on June 30 unless otherwise

provided for in these rules. All owners or owners of an interest, as that term is defined under ARM 23.16.101, are considered applicants for all licensing purposes within this chapter.

(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.

(3) The application must also contain:

(a) authorization for the examination and release of information for use in assessing a gambling license application;

(b) one or more personal history statements (Form 10), as required in the application;

(c) a complete set of fingerprints, on Form FD-258 provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement;

(d) any license or processing fee required by Title 23, chapter 5, MCA, or these rules; and

(e) any additional information, statements, or documentation required in the rules applicable to those licenses.

(4) Forms 10 and FD-258 are available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site www.doj.mt.gov/gaming.

(5) All required documents must be submitted by the applicant(s) in all new and amended license applications. (History: 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; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2002 MAR p. 902, Eff. 4/1/02; AMD, 2002 MAR p. 2441, Eff. 9/13/02; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2005 MAR p. 2333, Eff. 11/24/05; AMD, 2006 MAR p. 1735, Eff. 7/7/06; AMD, 2007 MAR p. 2010, Eff. 12/7/07; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.103 INVESTIGATION OF APPLICANTS, FINGERPRINTS TO BE REQUIRED - DISCLOSURE FROM NONINSTITUTIONAL LENDER (1) An applicant for a gambling license must make full disclosure of all information, and provide fingerprints as required by the department, these rules, and Title 23, chapter 5, MCA.

(2) The department may, at its discretion, require additional information, documentation, or disclosure from an applicant for a gambling license.

(3) The department may require any noninstitutional lender to complete a document (Form 13) authorizing examination and release of information and (Form 10) a personal history statement on the lender, fingerprints on a form provided by the department, as well as any contract, statement, or other document from the lender deemed necessary to assess the suitability of an applicant's funding source as required in 23-5-176, MCA. The document must be signed and dated by the lender and attested to by a notary public. Forms 13, 10, and FD-258 are available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site www.doj.mt.gov/gaming. (History: 23-5-115, MCA; IMP, 23-5-112, 23-5-115, 23-5-118, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p.

2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2002 MAR p. 902, Eff. 4/1/02; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2005 MAR p. 2454, Eff. 12/9/05; AMD, 2007 MAR p. 2010, Eff. 12/7/07; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.104 PROCESSING OF GAMBLING LICENSE APPLICATION

(1) Upon receipt of an application for a gambling license, the department must make a thorough investigation as to the qualifications of the applicant for licensure. If, upon conclusion of such investigation, the applicant appears qualified under the law, a license must be issued if all requirements of the law and these rules are fulfilled.

(2) The department may consider the same matters, conditions, and qualifications for renewal of a gambling license as for the original application. (History: 23-5-115, MCA; IMP, 23-5-115, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90.)

23.16.105 WITHDRAWAL OF APPLICATION (1) An applicant may request withdrawal of an application at any time prior to final department action upon the application by filing a written request to withdraw. The department will respond within 30 days of receipt of the applicant's request for withdrawal.

(2) The department may, in its discretion, grant the request with or without prejudice. If the division's decision to grant a request to withdraw an application is made with prejudice, it must be based on a finding that the applicant has engaged or is engaging in an act or practice constituting a violation of a provision of Title 23, chapter 5, MCA, or a rule or order of the department, or that the applicant is a person whom the department determines is not qualified to receive a license under 23-5-176, MCA, or ARM 23.16.107. This decision is subject to challenge pursuant to the Montana Administrative Procedure Act.

(3) If a request for withdrawal is granted with prejudice, the applicant is not eligible to apply again for licensing or approval until after expiration of one year from the date of the final department action upon the decision to grant the withdrawal of the application with prejudice. (History: 23-5-115, MCA; IMP, 23-5-115, 23-5-136, 23-5-176, MCA; NEW, 1993 MAR p. 2786, Eff. 11/25/93; NEW, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97.)

23.16.106 ELECTRONIC SUBMISSION OF DOCUMENTS AND ELECTRONIC SIGNATURES (1) The department may accept electronic submission of certain documents through the licensing portal.

(2) An electronically submitted document is only complete if:

(a) all requested information is provided; and

(b) the submitter is the applicant, licensee, or an authorized representative of the applicant or licensee.

(3) By electronically submitting a document, the submitter declares, under the penalty, that:

(a) the information submitted is true, correct, and complete; and

(b) the submitter is the applicant, licensee, or an authorized representative of the applicant or licensee.

(4) An electronically submitted document is subject to the same deadlines as a document submitted in paper form. (History: 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, 23-5-407, 23-5-409, 23-5-513, 23-5-621, 23-5-625, 23-5-705, MCA; NEW, 2014 MAR p.

1505, Eff. 7/11/14.)

23.16.107 GROUNDS FOR DENIAL OF GAMBLING LICENSE, PERMIT, OR AUTHORIZATION (1) With respect to any gambling license, permit, or authorization, the department may deny initial issuance, or, if issued, deny renewal or take any action authorized in 23-5-136, MCA, when the department can demonstrate that the applicant or holder of such license, permit or authorization has:

(a) concealed, failed to disclose, or otherwise attempted to mislead the department with respect to any material fact contained in the application or contained in any other information required of or submitted by an applicant or licensee for any licensing purpose;

(b) purposely or knowingly failed to comply with Title 23, chapter 5, MCA, or these rules;

(c) been convicted of any felony within five years of the date of application;

(d) been placed and remains on probation or parole or under deferred prosecution for committing a felony;

(e) purposely or knowingly possessed or permitted to remain in or upon any premise licensed for gambling activity any device designed for the purpose of cheating or manipulating the outcome of any gambling activity or gambling enterprise authorized by Title 23, chapter 5, MCA;

(f) been prohibited by a governmental authority from being present upon the premises of any gambling establishment or gambling enterprise or any establishment where parimutuel wagering is conducted for any reason relating to improper gambling activities or any illegal act;

(g) failed to cooperate with any legislative investigative committee or other officially constituted body acting on behalf of the United States or any state, county, or municipality which seeks to investigate crimes relating to gambling, corruption of public officials, or any organized criminal activities;

(h) had any action taken against a gambling license by any agency of the state of Montana or other jurisdiction, which resulted in a final order declaring a violation or a conviction of any crime which is contrary to the declared gambling policy of the state of Montana;

(i) been voluntarily or involuntarily dissolved as an entity;

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

(k) had a gambling license denied for other than technical defects in the application.

(2) The department may, in its discretion, deny a license under (1) with or without prejudice. If the division's decision to deny an application is made with prejudice, it must be based on a finding that the applicant has engaged or is engaging in an act or practice constituting a violation of a provision of Title 23, chapter 5, MCA, or a rule or order of the department, or that the applicant is a person whom the department determines is not qualified to receive a license under 23-5-176, MCA, or this rule. This decision is subject to challenge pursuant to the Montana Administrative Procedure Act. Any person whose application has been denied with prejudice is not eligible to apply again for licensing or approval until after expiration of one year from the date of the final department action upon the decision to deny the application with prejudice. (History: 23-5-112, 23-5-115, MCA; IMP, 23-5-115, 23-5-176, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.108 RECOURSE IN CASES OF DENIAL OR NONRENEWAL OF GAMBLING LICENSE - HEARING, JUDICIAL REVIEW (1) Upon completion by the department of its investigation of an applicant's qualifications for licensure, the department shall notify the applicant in writing of its intended action. If the applicant desires a hearing, a written request for a hearing must be submitted to the department within 20 days.

(2) Upon receipt by the department of a written request for hearing, all proceedings involving the denial or nonrenewal of a gambling license shall be conducted in accordance with the Montana Administrative Procedure Act and the Attorney General's Model Rules of Procedure. The applicant shall notify the appointed hearing officer whether the applicant waives or invokes the confidentiality requirements of 23-5-115, MCA. (History: 23-5-115, MCA; IMP, 23-5-115, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91.)

23.16.109 RENEWAL OF GAMBLING LICENSE (1) Renewal of an existing gambling license must be accomplished by submitting a renewal application on forms prescribed by the department. A renewal application is not complete unless it is signed and dated by the applicant and contains all information, statements, and documentation required by the department.

(2) Any renewal or annual fee required by Title 23, chapter 5, MCA, or these rules, must accompany each renewal application. (History: 23-5-115, MCA; IMP, 23-5-115, 23-5-177, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1997 MAR p. 404, Eff. 2/25/97.)

23.16.110 ASSOCIATED GAMBLING BUSINESS LICENSE (1) Except where licensure is required by Title 23, chapter 5, MCA, or under these rules, an associated gambling business license is a license the department may issue to a person or entity whose business provides products or services to a licensed gambling business and:

(a) possesses or maintains control over gambling equipment or devices;

(b) has access to gambling related trade secrets, or proprietary, confidential, or tax information; or

(c) is a party to a gambling transaction.

(2) An applicant for an associated gambling business license must submit to the department:

(a) an application using Form 17, with special instructions, and Form FD-258, which are available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site www.doj.mt.gov/gaming;

(b) Form 10 for all applicants as described in ARM 23.16.102;

(c) a complete set of fingerprints, on Form FD-258 provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department, for each person required to complete a personal history statement;

(d) financial statements for the applicant's business as described in ARM 23.16.502; and

(e) a check or money order for $1,100 made payable to the State Treasurer, which includes payment for the:

(i) $100 annual license fee; and

(ii) $1,000 processing fee to cover the actual cost of processing the license.

(3)) Based on the actual cost incurred by the department in determining whether the applicant qualifies for licensure, the department will refund any overpayment of the processing fee or collect an amount sufficient to reimburse the department for any underpayment of actual costs. If an applicant withdraws the application after the department has begun processing the application, the department will refund any amount not expended as of the date of withdrawal.

(4) The department may waive the application and processing fee if the applicant is licensed as an operator, distributor, manufacturer of legal or illegal devices, or a route operator, and if the applicant is substantially the same and has not added strangers to the license.

(5) The provisions of this rule do not apply to professionals such as attorneys or accountants when they are retained in their professional capacity by licensees and may have access to gambling related trade secrets, or proprietary, confidential, or tax information. Where a gambling related business is given access to gambling related trade secrets or proprietary or confidential information in order to produce a product or service to be made available for sale to licensees in this state, and the department requires that business possess an associated gambling business license, those requirements are provided for under separate rule. (History: 23-5-112, 23-5-115, 23-5-178, MCA; IMP, 23-5-115, 23-5-178, MCA; NEW, 2009 MAR p. 1260, Eff. 7/31/09; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.111 REAPPLICATION RULE (REPEALED) (History: 23-5-115, MCA; IMP, 23-5-115, MCA; NEW, 1993 MAR p. 2786, Eff. 11/25/93; NEW, 1994 MAR p. 2834, Eff. 10/28/94, REP, 1997 MAR p. 404, Eff. 2/25/97.)

Rules 23.16.112 through 23.16.114 reserved

23.16.115 DEFINITIONS (REPEALED) (History: 23-5-115, MCA; IMP, 23-5-118, 23-5-176, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; REP, 1997 MAR p. 404, Eff. 2/25/97.)

23.16.116 TRANSFER OF INTEREST AMONG LICENSEES (1) Except as provided in (9), an ownership interest may not be transferred among existing owners without submitting an amended gambling license application to the department and obtaining department approval prior to the transfer.

(2) Gambling activity may continue pending the outcome of a license investigation for a proposed transfer of ownership due to the death of a licensee under joint tenancy with right of survivorship as long as the person to whom the interest is transferred is already listed as an owner in the licensed operation and joint tenancy had been documented and approved in the original license application. The transfers must be reported on Form 37 along with the following documents:

(a) death certificate;

(b) will of the deceased, if any; and

(c) copy of the licensee's most recent financial statements or tax return.

(3) Gambling activity may continue pending the outcome of a license investigation for the proposed transfer of ownership in a licensed operation resulting from divorce as long as the spouse to whom an interest is transferred has already been approved and listed as an owner of that license. These types of proposed transfers must be reported on Form 37 along with the following documents:

(a) court decree of dissolution of marriage;

(b) source of funding documents, if any, if the transfer requires a buyout, e.g.,

bank statements supporting cash payments, loan and security agreements, installment payment agreement, etc.;

(c) copy of the licensee's most recent financial statements or tax return;

(d) if the transferring spouse will no longer be a licensee, copies of letters or other documents from lenders, landlords, or other parties to whom the licensee is obligated, which release the spouse from primary responsibility for the obligation, although the transferring spouse may still guarantee the obligation;

(e) if the transferring spouse is no longer a licensee, an updated bank signature card; and

(f) if the licensed entity is a corporation, copies of the cancelled and newly issued stock certificates.

(4) Gambling activity may continue pending the outcome of a license investigation for a proposed transfer of ownership in a licensed operation by gift among licensees. This type of proposed transfer must be reported on Form 37 along with the following documents:

(a) gifting statement which provides the names of the parties, the intent of the parties, and the percentage ownership to be transferred through the gift;

(b) copy of the licensee's most recent financial statements or tax return; and

(c) if the licensed entity is a corporation, copies of the cancelled and newly issued stock certificates.

(5) Gambling activities may continue pending the outcome of a license investigation for a proposed transfer of ownership in a licensed operation from a sale and purchase among owners of that license. This type of transfer must be reported on a Form 37 along with the following documents:

(a) transfer documents that include all terms of sale/transfer;

(b) if the licensed entity is a corporation, copies of the cancelled and newly issued stock certificates;

(c) source of funding documents for the purchase, e.g., bank statements supporting cash payments, loan and security agreements, installment payment agreements, etc.;

(d) copy of licensee's most recent financial statements or tax return;

(e) if the seller/transferor will no longer be a licensee, copies of letters or other documents from lenders, landlords, or other parties to agreements with which the licensee is obligated, which release the seller from primary responsibility for the obligation, although the seller/transferor may still guarantee the obligation; and

(f) if the seller is no longer on the license, an updated bank signature card.

(6) The department may conduct an investigation to determine whether the proposed transfer meets the licensure requirements in 23-5-176, MCA, and department rules. In any case of the transfer of an ownership interest among existing owners, before approving the transfer, the department must determine that the transferred ownership interest is independently exercised by the new owner and does not remain under the control of the transferor.

(7) Within 60 days after receiving the completed amended application, the department shall approve the proposed transfer by issuing an amended gambling license or notify the parties involved of the denial of the license or other appropriate action.

(8) The department may not charge any additional annual gambling license or machine permit fees.

(9) The provisions of this rule do not apply to the:

(a) transfer of a security interest in a licensed gambling operation; or

(b) transfer of less than 5% interest in a publicly-traded corporation. Transfers of an interest of 5% or more in a publicly-traded corporation are subject to

the provisions of this rule, except that the transfer may occur without prior department approval. The department reserves the right to act under 23-5-136, MCA, in this situation if it determines that the transfer violates Montana gambling law or the rules in this chapter. (History: 23-5-115, MCA; IMP, 23-5-115, 23-5-118, 23-5-176, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 2009 MAR p. 2480, Eff. 12/25/09; AMD, 2010 MAR p. 1732, Eff. 7/30/10.)

23.16.117 TRANSFER OF INTEREST TO NEW OWNER (1) Except as provided in (7), (8), and (9), an ownership interest may not be transferred to a new owner until a new gambling license application reflecting the proposed transfer is submitted to the department and the department approves the transfer.

(2) The gambling license application must include:

(a) the annual license fee, if applicable, and the processing fee required for the specific license; and

(b) a copy of the proposed agreement to transfer the interest.

(3) The department shall conduct an investigation to determine whether the proposed transfer meets the licensure requirements in 23-5-176, MCA, and department rules. In any case of the transfer of an ownership interest to a new owner, the department must determine that the transferred ownership interest will be independently exercised by the new owner and will not remain under the control of the transferor before approving the transfer.

(4) Within 90 days after receiving the completed application, the department shall approve the proposed transfer by issuing a gambling license, notify the applicant of the denial of the license, or take other action.

(5) After the gambling license has been issued, the department shall issue the appropriate gambling permits to the licensee upon submission of completed applications and payment of permit fees.

(6) A certificate, stock, or other evidence of ownership may not be registered in the licensee's records until the gambling license has been issued by the department.

(7) The provisions of this rule do not apply to the:

(a) transfer of a security interest in a licensed gambling operation; or

(b) transfer of less than 5% interest in a publicly traded corporation. Transfers of an interest of 5% or more in a publicly traded corporation are subject to the provisions of this rule, except that the transfer may occur without prior department approval. The department reserves the right to act under 23-5-136, MCA, in this situation if it determines that the transfer violates Montana gambling law or the rules in this chapter.

(8) Transfers of ownership in a licensed gambling operation resulting from foreclosure on a contract for deed or other instrument of transfer require submission of an application as described as follows:

(a) Gambling activity may continue pending the outcome of a license investigation for a proposed transfer of ownership interest resulting from foreclosure under the following conditions:

(i)) the party foreclosing has had no change in ownership since last licensed, and is the licensee's immediate predecessor;

(ii) the foreclosing party is suitable for licensure;

(iii) all applicable permit fees are paid; and

(iv) he former licensee has notified the department of the foreclosure at the time the foreclosure is executed; notification must be made within five working days

of execution and an application must be received by the department within 30 working days following notification; failure to notify the department within this time frame may result in department action to cause gambling operations to cease immediately, and:

(A) the foreclosure takes place within two years following the sale, in which case an amended license application may be submitted on a Form 37, together with a personal history statement (Form 10) for each person applying for licensure, and a complete set of fingerprints (Form FD-258) obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department, for each person required to complete a personal history statement, and a copy of the licensee's most recent financial statements or tax returns; or

(B) the foreclosure takes place more than two years but fewer than five years following the sale, a new license application is required, including all applicable fees, as long as the owner meets the criteria contained in (8)(a)(i), (ii), (iii), and (iv).

(b) Transfers resulting from foreclosure that do not meet all of the conditions set forth in (8)(a) require a new license application to be filed and gambling activities to cease pending approval of the application.

(9) Transfers of ownership control of a licensed gambling operation into a receivership, trust, or an estate mandated by court order require an amended application to be filed. The transfer of ownership interest to an estate that results from the death of a licensee may be reported on Form 37.

(a) Under this circumstance, gambling activity may continue pending the outcome of the license investigation if the following documents are submitted and determinations are made:

(i) documentation of the event precipitating the transfer of the licensed gambling operation into a receivership, trust, or estate, e.g., death certificate;

(ii) documents naming/appointing a person to exercise ownership control, e.g., receiver, personal representative, trustee;

(iii) personal history statement, (Form 10) as that form is described in ARM 23.16.102(3)(b), for the person designated to act in the capacity of a receiver or trustee;

(iv) a complete set of fingerprints, Form FD-258 provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement; and

(v) a copy of the licensee's most recent financial statements or tax returns; and

(vi) he department determines the receiver is suitable to hold or own a license.

(b) Upon the dissolution of a receivership, trust, or estate licensed under (9), if ownership interests are distributed to strangers to the license, a new license application must be filed and all applicable rules and procedures must be followed.

(c) If ownership interests are transferred to existing owners following the dissolution of a receivership, trust, or estate, an amended license application must be filed. (History: 23-5-115, MCA; IMP, 23-5-115, 23-5-118, 23-5-176, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2007 MAR p. 2010, Eff. 12/7/07; AMD, 2009 MAR p. 2480, Eff. 12/25/09; AMD, 2011 MAR p. 2628, Eff. 12/9/11.)

23.16.118 ESCROW REQUIRED (1) 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) Except as provided in ARM 23.16.120, a loan, pledge, or similar transaction between the parties to the proposed transfer or with other parties associated with the transfer may be deemed a violation of this rule. (History: 23-5-115, MCA; IMP, 23-5-118, 23-5-176, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91.)

23.16.119 PARTICIPATION IN OPERATIONS

(1) A person who proposes to acquire an ownership interest in a licensed gambling operation may not control or participate in any capacity reflecting ownership in that operation until the applicant's license has been approved by the department as provided for in ARM 23.16.116 or 23.16.117.

(2) If a person has been employed by the licensed gambling operation for more than six consecutive months before submitting to the department the application required in ARM 23.16.116 or 23.16.117, the employee may continue to be employed pending department action.

History: 23-5-115, MCA; IMP, 23-5-115, 23-5-118, 23-5-176, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1997 MAR p. 404, Eff. 2/25/97

23.16.119 LOANS AND OTHER FORMS OF FINANCING (1) Except as provided in (4), (5), (6), and (7), if a gambling licensee or license applicant proposes to acquire a loan or other forms of financing from a noninstitutional source for use in his licensed gambling operation or grant a security interest to a noninstitutional source, the department must approve the contract or security interest transfer before any funds from the loan or financing may be received or expended by the licensee or license applicant and before the security interest may be transferred.

(2) Except as provided in (4) and (5), a gambling licensee proposing to lend money to or acquire a security interest from, another gambling licensee must receive written confirmation of department approval of the loan, or security interest transfer before any funds from the loan may be transferred to or expended by the borrower licensee and before the security interest may be transferred.

(3) All licensees who propose to acquire loans or grant security interests in their licensed gambling operation, must notify the department in writing prior to acquiring the loan from a noninstitutional source, or transferring a security interest to a noninstitutional source. The notice, which is to be signed under oath, must include:

(a) the names and addresses of all parties to the loan or transfer;

(b) the amount and source of the loan funds or amount and source of the funds used to acquire the security interest;

(c) the nature and amount of the security provided for the loan or security interest;

(d) the purpose of the loan or transfer of the security interest.

(4) Prior department approval is not required on loans made to gambling operator licensees from route operators for the purpose of establishing a video gambling machine change bank (pool of funds out of which the operator can make change and pay out prizes on valid video gambling machine ticket vouchers) under the following conditions:

(a) the route operator submits a list of licensed gambling operators for which he will be providing a change bank loan and the amount of each change bank;

(b) the route operator enters into a written agreement with the gambling operator, signed by both parties, providing notification to the gambling operator that

the loan proceeds may only be used to make change or to pay out prizes on valid video gambling machine ticket vouchers and that the use of the proceeds for any other purpose is a violation of the gambling laws and rules;

(c) at least twice each month, the route operator must reconcile the amount of prizes paid out with the cash remaining in the change bank. If the amount of prizes paid out cannot be reconciled with the cash remaining in the change bank, the route operator must analyze and document the difference. Any material differences must be immediately reported to the department. (For the purposes of this rule, material difference means any amount greater than 5% of the value of the change bank loan or $100, whichever is less.) A record of the reconciliations and analysis of material differences must be maintained for a minimum of 12 full quarters from the previous quarterly tax return due date; and

(d) failure to maintain adequate records or notify the department of material differences and investigations findings will subject the route operator to administrative action.

(5) Prior department approval is not required on loans made between closely related licensed operators under the following conditions:

(a) both licensed operators must have the same majority ownership. For the purposes of this rule the "same majority ownership" means the same individual or group of individuals owning a greater than 50% interest in both licensed operations;

(b) the operators submit a list of operations to which loans may be made and from which loans may be received;

(c) the borrower complies with (3);

(d) the borrower and lender's financial records accurately reflect the transaction as a loan payable and receivable. Any balance due upon renewal not previously reported on license renewal forms must also be reported on the license renewal application; and

(e) failure to maintain adequate records or notify the department of material differences will subject the licensees to administrative action.

(6) Prior department approval is not required for accounts payable incurred for the purpose of acquiring nongambling inventories, supplies and other materials or equipment under the following conditions:

(a) the payable does not require the transfer of a security interest in any assets of the licensed operation other than the product(s) purchased;

(b) the terms of repayment are of a short term nature, less than one year;

(c) repayment is due the seller of the products;

(d) the sale of such products is in the seller's normal course of business;

(e) a copy of the loan agreement or, in the case of a transfer of a security interest, the agreement precipitating the transfer, and a copy of the agreement to transfer the security interest or uniform commercial code document filed with the Secretary of State to record the transfer; and

(f) all such financing must be disclosed at the time of license renewal.

(7) Prior department approval is not required on loans to a licensed entity by an approved (licensed) owner of the entity (shareholder, member, partner) under the following conditions:

(a) the loan is used to meet an obligation of the licensed entity that cannot be met with its existing operating accounts and reserves;

(b) the funds loaned to the licensed entity must be those of the owner. The funds cannot have been borrowed by the owner from any other source;

(c) the loan must be memorialized by an agreement between the licensed entity and owner. The loan agreement must meet the department's evaluation standards;

(d) the borrower and lender's financial records must accurately reflect the transaction;

(e) any balance due upon renewal not previously reported on license renewal forms must be reported on the license renewal application; and

(f) failure to maintain adequate records of the transaction or source of funds loaned will be considered a violation of this rule.

(8) Prior department approval is not required for "cash equivalent sales" payables incurred for the purpose of acquiring video gambling machines under the following conditions:

(a) the seller of the machines is a licensed video gambling machine manufacturer or distributor;

(b) the payable does not require the transfer of a security interest in any assets of the licensed gambling operation other than the video gambling machines purchased;

(c) repayment is due the licensed seller of the machines; and

(d) the term of repayment does not exceed 365 days.

(9) The provisions of (8) do not apply to video gambling machine retail installment sale agreements or conversions from a "cash equivalent" sale to a retail installment sale agreement.

(10) The department may disapprove the loan or transfer of the security interest if it determines that the loan or transfer or the agreement(s) involves an unsuitable source of financing or otherwise violates any statute or rule. (History: 23-5-115, MCA; IMP, 23-5-115, 23-5-118, 23-5-176, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2002 MAR p. 2441, Eff. 9/13/02; AMD, 2003 MAR p. 1282, Eff. 6/27/03; AMD, 2009 MAR p. 2480, Eff. 12/25/09; AMD, 2011 MAR p. 146, Eff. 2/11/11.)

23.16.120 LEASING OF LICENSE PROHIBITED (1) A gambling license or permit is a privilege personal to the gambling licensee and may not be leased, assigned, or transferred to another person.

(2) The department's examination to determine the existence of a lease or other similar arrangement includes, but is not limited to, the following factors:

(a) the nature of various employment relationships (e.g., "lessee"/"lessor", "lessee"/gambling-related employees, "lessor"/gambling-related employees);

(b) responsibility for liabilities (e.g., payment of taxes, insurance, rent; liability for injury; violations of law);

(c) methods and amounts of reimbursement (e.g., to "lessor", to "lessee");

(d) eventual transfer of business; and

(e) any other evidence indicating the existence of a lease or other method of conveyance.

(3) This rule does not prohibit a licensed operator from entering into an agreement with a licensed card room contractor to operate one or more live card game tables on the operator's premises. (History: 23-5-115, MCA; IMP, 23-5-110, 23-5-159, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1998 MAR p. 1176, Eff. 5/1/98.)

23.16.121 LOAN EVALUATION - INSTITUTIONAL LENDER SECURITY INTERESTS - GUARANTOR PAYMENTS (1) The department will evaluate a transaction to determine if it is a loan using standards in the Uniform Commercial Code, the Internal Revenue Code, and generally accepted commercial lending

practices. Loans will also be evaluated in the context of overall financing of the business to determine that a loan rather than an ownership interest exists and that the contract does not grant the lender control of the licensed operation.

(2) Institutional lenders may secure loans made to a license applicant or licensee with security interests on assets belonging to the applicant or licensee. In securing the assets of a license applicant or licensee, an institutional lender may limit the movement of the assets, including a liquor license.

(3) For loans made to a license applicant or licensee, an institutional lender may require loan guarantees and may secure guarantee agreements with assets of the guarantor.

(4) An institutional lender may require payment from loan guarantors without initially exhausting all remedies against the borrower under the following conditions:

(a) if the guarantor is an owner of the applicant/licensee, i.e., partner, shareholder, member, and payment is made with the owner/guarantor's own funds or funds borrowed from an institutional or division approved noninstitutional source;

(b) if the guarantor is not an owner, payment may only be made as a loan to the owners or licensed borrower/entity. Funds used to loan the money for the payment under the guarantee, must be the guarantor's own funds or funds borrowed from an institutional source. The guarantor must also be found suitable as a source of credit as part of the application or loan approval process by submitting a personal history statement (Form 10) and a complete set of fingerprints (Form FD-258).

(5) A loan guarantor must annually elect to treat payments made under a loan guarantee agreement as loans, paid in capital, or other equity contributions, as required by the Internal Revenue Code.

(a) If the guarantor elects to treat the payments as loans to the licensee, the licensee must follow requirements for disclosing noninstitutional lenders found in ARM 23.16.120(7).

(b) If the guarantor elects to treat payments as an equity contribution, and such election changes the percentage of ownership in the license, an amended license application must be filed with the department at the time of the election to disclose the change. (History: 23-5-115, MCA; IMP, 16-4-801, 23-5-115, 23-5-118, 23-5-176, MCA; NEW, 1997 MAR p. 404, Eff. 2/25/97; AMD, 2010 MAR p. 1732, Eff. 7/30/10.)

Rules 23.16.123 and 23.16.124 reserved

23.16.125 CHANGE OF LIQUOR LICENSE TYPE (1) Except as otherwise required by ARM 23.16.116 or ARM 23.16.117, when an owner of a gambling operator license changes the type of alcoholic beverage license, the owner must submit an amended gambling license application on Form 39 and obtain department approval.

(2) The department may conduct an investigation to determine whether the proposed change of the license type meets the licensure requirements in 23-5-176, MCA, and department rules.

(3) The applicant may continue to operate during the time the amended application is being processed. (History: 23-5-115, MCA; IMP, 23-5-119, MCA; NEW, 1993 MAR p. 2786, Eff. 11/25/93; NEW, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 2003 MAR p. 1282, Eff. 6/27/03; AMD, 2009 MAR p. 2480, Eff. 12/25/09; AMD, 2011 MAR p. 2628, Eff. 12/9/11.)

23.16.126 CHANGE OF LOCATION (1) Except as otherwise required by ARM 23.16.116 or ARM 23.16.117, when an owner of a gambling operator license

changes the location of the alcoholic beverage license, the owner must submit an amended gambling license application and obtain department approval.

(2) A licensed manufacturer, distributor, or route operator may report a change of location on a Form 37 amended application.

(3) The department may conduct an investigation to determine whether the proposed change meets the licensure requirements in 23-5-176, MCA, and department rules.

(4) The gambling operator may continue to operate at the current location during the time the amended application is being processed. (History: 23-5-115, MCA; IMP, 23-5-117, MCA; NEW, 1993 MAR p. 2786, Eff. 11/25/93; NEW, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 2009 MAR p. 2480, Eff. 12/25/09; AMD, 2011 MAR p. 2628, Eff. 12/9/11.)

23.16.127 CHANGE IN BUSINESS ENTITY TYPE (1) Except as otherwise required by ARM 23.16.116 or ARM 23.16.117, when the owner of a gambling operator license proposes a change in business entity, the owner must submit an amended gambling license application on Form 39 and obtain department approval.

(2) The department may conduct an investigation to determine whether the proposed change meets the licensure requirements in 23-5-176, MCA, and department rules.

(3) The applicant may continue to operate during the time the amended application is being processed. (History: 23-5-115, MCA; IMP, 23-5-115, 23-5-118, MCA; NEW, 2011 MAR p. 2628, Eff. 12/9/11.)

Rules 23.16.128 and 23.16.129 reserved

23.16.130 TRANSFERS OF OWNERSHIP INTERESTS IN LOCATIONS THAT DO NOT POSSESS AN ON PREMISE CONSUMPTION ALCOHOLIC BEVERAGE LICENSE GRANDFATHERED FOR THE PURPOSE OF OBTAINING PERMITS TO OPERATE VIDEO GAMBLING MACHINES (1) The two types of locations that do not possess an on premise consumption alcoholic beverage license and were grandfathered for the purpose of obtaining permits to operate video gambling machines are distinguished for the purpose of transferring ownership of the location. Premises operated for the principal purpose of gaming may be sold, assigned or transferred to a stranger to the license and retain the right to obtain video gambling machine permits. Ownership interests in premises that were not operated for the principal purpose of gaming cannot be sold, assigned or transferred to a stranger to the license and maintain the ability to permit video gambling machines.

(2) Both gaming and nongaming premises may transfer ownership of the licensed gaming operation to another form of business organization and retain the right to permit video gambling machines as long as no individuals who are strangers to the license are assigned an ownership interest. (History: 23-5-115, MCA; IMP, 23-5-306, 23-5-611, MCA; NEW, 1993 MAR p. 2786, Eff. 11/25/93; NEW, 1994 MAR p. 2834, Eff. 10/28/94.)

Subchapter 2

Gambling, Generally

23.16.201 INSPECTION OF LICENSED PREMISES, RECORDS, AND DEVICES (1) Any licensed premise where gambling-related activity is conducted or

any premise connected to the operation of a licensed gambling-related activity shall at all times during normal business hours be open to inspection by the department or local law enforcement official in order to determine compliance with the law of Montana and rules of the department.

(2) At any time during which a licensed gambling activity is being operated upon a premise, the department may enter upon the premise without advance notice and:

(a) inspect the records related to the operation of any licensed gambling activity;

(b) inspect, including the dismantling and reassembly of, all pieces of equipment and parts thereof, or devices of any nature which are being used to conduct the licensed activity; and

(c) make a count of all monies involved in the operation of the licensed activity located on the premise. (History: 23-5-115, MCA; IMP, 23-5-115, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90.)

23.16.202 CREDIT PLAY PROHIBITED (1) All playing of games of chance must be on a cash basis. No credit may be extended to any player. Consideration to play a game of chance must be paid in full, in cash, in advance of any play.

(2) No operator may grant a loan of any kind at any time to a player or permit a deferred payment including post-dated checks or engage in any similar practice. A check or debit card used to obtain cash on the premises of a licensed operator must be delivered and accepted unconditionally. An operator may not accept or hold a check, credit card, or debit card pending the outcome of a gambling activity. An operator may not accept cash from the person who wrote the check to repurchase a check previously cashed on the premises, unless the cash is tendered by noon on the day following the date written on the check.

(a) Checks returned from a banking institution labeled "dishonored" or "non-sufficient funds" are not subject to the same date requirements of this rule.

(3) A licensee may accept debit cards to provide cash to customers for gambling purposes. The customer must present the debit card and the cardholder must enter a PIN number.

(4) No licensee may accept credit cards for cash advances or the sale of items that may be redeemed for cash, such as gambling chips, money orders, checks, e-checks, vouchers, travelers checks, wire transfers, or gift cards.

(5) Any merchandise or services purchased from a licensee with a credit card may be refunded or reimbursed through an adjustment to the customer's credit card account, and not by a cash refund unless, as provided in 30-14-108(4), the gift card was originally purchased for an amount in excess of $5 and the amount remaining on the card is less than $5.

(6) The play of authorized card games which are normally scored using points is not considered credit gambling. (History: 23-5-115, MCA; IMP, 23-5-115, 23-5-157, MCA; NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 2005 MAR p. 2248, Eff. 11/11/05; AMD, 2009 MAR p. 1260, Eff. 7/31/09.)

23.16.203 ADMINISTRATIVE PROCEDURE (1) Upon completion by the department of its investigation of any matter within its jurisdiction, the department shall notify the person involved of its intended action. If the person involved then desires a hearing, he must submit a written request to the department within 20 days.

(2) Upon receipt by the department of a written request for hearing, all

proceedings shall be conducted in accordance with the Montana Administrative Procedure Act and the Attorney General's Model Rules of Procedure.

(3) If requested, judicial review shall be conducted in accordance with 23-5-137, MCA, and the Montana Administrative Procedure Act. In cases of conflict, 23-5-137, MCA, shall prevail.

(4) This rule does not apply to temporary cease and desist orders issued by the department under 23-5-136, MCA. (History: 23-5-115, MCA; IMP, 23-5-115, 23-5-136, MCA; NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1997 MAR p. 404, Eff. 2/25/97.)

23.16.204 PROCEDURE FOR ADMISSION OF HEARSAY EVIDENCE

(1) Notwithstanding any provision of the Montana Administrative Procedure Act or the Attorney General's Model Rules of Procedure to the contrary, hearsay evidence may be submitted in a proceeding before the Gambling Control Division if it meets the requirements of 23-5-138, MCA. The evidence must be submitted to the hearing examiner and to the respondent at least 30 days before the hearing at which it is to be considered. The evidence must be accompanied by a motion and if necessary a supporting brief. The respondent shall be given an opportunity to object to the evidence and request a prehearing conference at which its admissibility is considered. The hearing examiner shall issue a written ruling on the admissibility of the evidence at least ten days prior to the hearing in the matter. (History: 23-5-115, MCA; IMP, 23-5-138, MCA; NEW, 1993 MAR p. 2786, Eff. 11/25/93; NEW, 1994 MAR p. 2834, Eff. 10/28/94.)

Rule 23.16.205 reserved

23.16.206 PUBLIC DISCLOSURE OF INFORMATION (1) Except as provided in (2) and the Criminal Justice Information Act (Title 44, chapter 5, MCA), the department shall release information in its possession upon a case-by-case evaluation of whether the individual right to privacy clearly exceeds the merits of public disclosure.

(2) With regard to information obtained in the application or tax reporting processes, the department shall release information in conformance with 23-5-115, MCA, and 23-5-116, MCA. (History: 23-5-115, MCA; IMP, 23-5-115, 23-5-116, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91.)

Rules 23.16.207 and 23.16.208 reserved

23.16.209 DISPLAY OF ILLEGAL GAMBLING DEVICES AND ANTIQUE ILLEGAL GAMBLING DEVICES (1) If 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) displayed in a manner so that it is not accessible for public use; and

(b) rendered permanently inoperable for purposes of conducting a gambling activity in the following manner:

(i) If the device is a punchboard, pull tab, or similar device, it must have all punches removed or be permanently sealed to prevent a person from selecting, punching, or breaking open a ticket, board, or card.

(ii) If the device is a roulette wheel, craps table, slot machine, or other similar illegal gambling device, all moveable parts must be welded or otherwise rendered permanently inoperable, or the entire device must be enclosed in a permanently sealed case.

(2) A licensed gambling operator shall notify the department in writing before

displaying an illegal gambling device or an antique illegal gambling device on the licensed premises.

(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. (History: 23-5-115, MCA; IMP, 23-5-152, 23-5-153, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2005 MAR p. 1281, Eff. 7/15/05; AMD, 2007 MAR p. 848, Eff. 6/22/07; AMD, 2007 MAR p. 1544, Eff. 10/5/07.)

Subchapter 3

Shake-A-Day Games

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. (History: 23-5-115, MCA; IMP, 23-5-160, MCA; NEW, 1993 MAR p. 2786, Eff. 11/25/93; NEW, 1994 MAR p. 2834, Eff. 10/28/94.)

Subchapter 4

Card Dealer Licenses

23.16.401 APPLICATION FOR DEALER LICENSE (1) Applications for dealer licenses are available from a local gambling control office, local Motor Vehicle Division office, or other public location designated by the department. An applicant for a dealer license must appear in person and present photographic verifications of his identity to an authorized representative of the Motor Vehicle Division. The authorized representative of the Motor Vehicle Division must:

(a) obtain a photograph of the applicant; and

(b) provide a card dealer application packet which shall include:

(i)) Form 4, Montana card dealer application;

(ii) duplicate Forms FD-258 for two sets of fingerprints to be obtained and certified by a local law enforcement agency; and

(iii) 10 for personal history statements.

(2) The first year license fee required by Title 23, chapter 5, MCA, and a fingerprint processing fee must accompany each application.

(3) The application for a dealer license, Forms 4 and FD-258, are available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site www.doj.mt.gov/gaming. (History: 23-5-112, 23-5-115, MCA; IMP, 23-5-115, 23-5-308, MCA; EMERG, NEW, 1990

MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2005 MAR p. 2454, Eff. 12/9/05; AMD, 2007 MAR p. 848, Eff. 6/22/07; AMD, 2007 MAR p. 2010, Eff. 12/7/07; AMD, 2009 MAR p. 1260, Eff. 7/31/09; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.402 DEALER LICENSE (1) A dealer license issued by the department must be in the form of a laminated identification card and must contain the following information:

(a) on the front of the license:

(i) a photograph of the person to whom the license is issued;

(ii) the first name, middle initial, and last name of the person to whom the license is issued; and

(iii) he assigned license number and expiration date specific to the person to whom the license is issued.

(2) Every dealer license expires annually on the licensee's birthday, and in no case less than 12 months from the date of issuance. (History: 23-5-115, MCA; IMP, 23-5-308, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2002 MAR p. 2441, Eff. 9/13/02.)

23.16.403 PROCESSING OF DEALER LICENSE APPLICATION RENEWAL, OR REPLACEMENT (1) In every case in which application is made to the department for a dealer license, the department will, within 90 days:

(a) issue a dealer license to the applicant; or

(b) deny a dealer license to the applicant.

(2) An application to renew a dealer license must be received by the department prior to the expiration date of the license. An application not postmarked by the date of expiration will result in expiration of the dealer license.

(3) If the holder of an expired license submits an application to renew his license within 30 days after the expiration date, he may renew the license at the renewal license rate. If the renewal application is not received within 30 days, the holder shall reapply for a new original license in the manner required by these rules.

(4) Replacement of a dealer license is accomplished by following the new license procedure and including a $10 fee. (History: 23-5-115, MCA; IMP, 23-5-308, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91.)

Rules 23.16.404 and 23.16.405 reserved

23.16.406 TEMPORARY DEALER LICENSE (1) A temporary dealer license application packet may be obtained by an applicant from a local gambling control office, local Motor Vehicle Division office, or other public location designated by the department.

(2) An applicant for a temporary dealer license must first appear in person before an authorized representative of the Motor Vehicle Division and present photographic verification of applicant's identity. The authorized representative of the Motor Vehicle Division must obtain a photograph of the applicant.

(3) The applicant must then appear in person and submit to an investigator for the department:

(a) a completed application;

(b) payment of a first year license fee and fingerprint processing fees;

(c) valid photo identification and social security card or birth certificate;

(d) two complete sets of fingerprints obtained from and certified by a local

law enforcement agency, the department, or a private security company approved by the department; and

(e) verifiable evidence that the applicant has an offer of employment as a card dealer, or a reasonable prospect for employment as a card dealer, and that such employment is expected to commence within 14 days of making application.

(4) A temporary dealer license is valid for no more than 90 days. (History: 23-5-115, MCA; IMP, 23-5-308, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2007 MAR p. 848, Eff. 6/22/07.)

23.16.407 CONFISCATION OF TEMPORARY DEALER LICENSE (1) The department may immediately confiscate a temporary dealer license by issuing a temporary cease and desist order based on a finding of any of the following conditions:

(a) the holder of such license has been placed or remains in actual or constructive custody as a result of any felony or gambling-related misdemeanor and is awaiting trial on such criminal charges; or

(b) the department, pursuant to ARM 23.16.203(1), has notified the holder of such a license of the department's intent to deny a permanent dealer license to the holder. (History: 23-5-115, MCA; IMP, 23-5-115, 23-5-308, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

Rules 23.16.408 and 23.16.409 reserved

23.16.410 POSSESSION OF DEALER LICENSE (1) A dealer license must be carried on the licensee's person while on duty in a gambling premise.

(2) Every person in possession of a dealer license must produce upon request such license for any player or peace officer for the purpose of inspecting said license and identifying the licensee. (History: 23-5-115, MCA; IMP, 23-5-308, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 2007 MAR p. 848, Eff. 6/22/07.)

23.16.411 DEALER LICENSE SPECIFIC TO THE PERSON NAMED THEREON (1) A dealer license is specific to the person named on the face of the license and must not be displayed by anyone other than the licensee.

(2) A dealer license displayed by anyone except the licensee is subject to confiscation by federal, state, or local law enforcement office charged with the responsibility of investigating gambling activities.

(a) Any confiscated dealer license must be sent to the department along with a report detailing the circumstances of the seizure.

(b) Upon receipt of a confiscated dealer license and the accompanying report, the department must immediately begin an investigation into the circumstances for the purposes of determining whether a violation of Title 23, chapter 5, MCA, or these rules occurred. (History: 23-5-115, MCA; IMP, 23-5-308, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90.)

Subchapter 5

Gambling Operator Licenses

23.16.501 DEFINITIONS (REPEALED) (History: 23-5-115, MCA; IMP, 23-5-176, 23-5-177, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991

MAR p. 1942, Eff. 10/18/91; REP, 1997 MAR p. 404, Eff. 2/25/97.)

23.16.502 APPLICATION FOR OPERATOR LICENSE (1) All applicants shall submit the following information on Forms 30 and FD-258, which are incorporated by reference and available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site www.dojmt.gov/gaming:

(a) name(s), addresses, telephone numbers, and social security numbers; history of gambling licensure with any federal, state, or local agency; civil and criminal record; record of residence and employment for the last ten years of any person with an ownership interest in the applicant entity; and record of current residence and employment of any person with an option to purchase a share in the applicant entity;

(b) a complete set of fingerprints, on Form FD-258 provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement;

(c) the applicant's most recent financial statements with the application form. The statements must reflect the business operation for which the application is being submitted and include a balance sheet, income statement, and a statement of the amount and source of funding. The department may accept current state or federal income tax returns if they reflect the business operation for which the application is being submitted. If the business is prospective or has recently begun operating, the applicant shall submit a beginning balance sheet and a statement of the amount and source of funding for the business;

(d) the amounts and sources of all business financing, along with the terms of each loan agreement and all related security agreements, and guarantees;

(e) the following ownership/management information, as applicable:

(i) if the business is a sole proprietorship, the above-cited information must be submitted on the proprietor; or

(ii) if the business is a partnership, the information must be submitted on each general and limited partner; or

(iii) if the business is a closely-held or subchapter S corporation, the information on each shareholder, and each officer and director if not the same; or

(iv) if the business is a publicly traded corporation, the names of each shareholder owning 5% or more of the company stock and the corporate officers and board of directors; or

(v) if the business is a limited liability company, the information must be submitted on all members; or

(vi) if the applicant is a nonprofit corporation or association, the information must be submitted on the person responsible for conducting the gambling activity (e.g., gambling manager, steering committee); or

(vii) if the owner(s) acquires the services of a gaming manager or management firm, the information must not only be submitted on the owner but the manager or firm as well; and

(f) the full name and address of every manager employed by the applicant in a gambling-related activity in Montana.

(2) Operator licenses must be renewed annually by completing forms prescribed by the department. There is no renewal fee or annual license fee required for an operator license.

History: 23-5-112, 23-5-115, MCA; IMP, 23-5-115, 23-5-118, 23-5-176, 23-5-177, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2002 MAR p. 902, Eff. 4/1/02; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2005 MAR p. 2454, Eff. 12/9/05; AMD, 2007 MAR p. 2010, Eff. 12/7/07; AMD, 2013 MAR p. 1606, Eff. 9/6/13.

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

(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) The applicant shall submit the deposit required under (1) in the form of a check or money order.

(3) Based on the actual cost incurred by the department in determining whether the applicant qualifies for licensure, the department shall refund any overpayment of the fee or collect an amount sufficient to reimburse the department for any underpayment of actual costs.

(4) If an applicant withdraws the application after the department has begun processing the application, the department shall refund any amount not expended as of the date of withdrawal. (History: 23-5-115, MCA; IMP, 23-5-177, MCA; TEMP, NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2002 MAR p. 902, Eff. 4/1/02.)

23.16.504 INVESTIGATION OF APPLICANTS, ADDITIONAL INFORMATION MAY BE REQUIRED (1) The department may require access to all of the applicant's financial records which pertain to the financing of the proposed operation, to evaluate statements and support documentation supplied with the background application form. (History: 23-5-115, MCA; IMP, 23-5-176, 23-5-177, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90.)

23.16.505 PREMISES SHARING INTERNAL ENTRANCE (1) Except as provided in 23-5-117, MCA, the department may not approve a premises for issuance of an operator's license if the premises:

(a) shares a common internal wall with another premises for which an operator's license has been issued; and

(b) the wall contains an internal entrance through which public access is allowed.

(2) If an internal entrance contained in a common wall is intended for nonpublic use only, the following conditions must be met to prohibit public access through the entrance:

(a) The entrance must be clearly identified as an entrance for nonpublic use only.

(b) The entrance must lead into an area in which the public does not normally have access, such as a storage area, an area located behind a bar or cashier booth, or a food service, preparation, or distribution area. (History: 23-5-115, MCA; IMP, 23-5-117, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91.)

23.16.506 PROVISIONAL OPERATOR LICENSE (REPEALED) (History: 23-5-115, MCA; IMP, 23-5-176, 23-5-177, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; REP, 1991 MAR p. 1942, Eff. 10/18/91.)

Rule 23.16.507 reserved

23.16.508 CHANGES IN MANAGERS, OFFICERS, AND DIRECTORS

(1) Any change in management employees, officers, or directors listed on a licensee's gambling license application must be reported to the department within 30 days of the date of change.

(2) New management employees, officers, and directors shall submit a

personal history statement and a complete set of fingerprints (Forms 10 and FD-258). A written management agreement must also be submitted for each new management employee.

(3) A license is subject to revocation if the changes in management employees, officers, or directors result in the licensee's failure to meet the statutory qualifications for licensure. (History: 23-5-112, 23-5-115, 23-5-176, MCA; IMP, 16-4-414, 23-5-176, 23-5-177, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2007 MAR p. 2010, Eff. 12/7/07; AMD, 2014 MAR p. 1505, Eff. 7/11/14.)

23.16.509 TEMPORARY GAMBLING AUTHORITY (1) The department may grant an applicant for a gambling operator license the temporary authority to operate gambling when:

(a) the application and supporting documents, except Form FD-258 fingerprint cards, have been electronically submitted to the department through the department's licensing portal;

(b) the department has concluded the application is complete;

(c) within the 12-month period prior to submission of the application, the premises to be licensed had been licensed and operated as a gambling establishment, or licensed for the on-premises consumption of alcoholic beverages, and the premises were not altered from the last approved floor plan;

(d) the department has no adverse information about the applicant's owners, officers, and managers prior to granting temporary authority; and

(e) except for those grandfathered locations provided for under ARM 23.16.130, the Department of Revenue has issued temporary authority to purvey alcoholic beverages.

(2) Temporary gambling authority is neither a conditional approval, temporary license nor a permit. It does not constitute a transfer of ownership, nor does it guarantee or imply any assurance that the department will approve the application.

(3) Temporary gambling authority is valid for 45 days, except when terminated sooner. Prior to the expiration of temporary gambling authority, and upon written request of the applicant, the department may extend temporary gambling authority for additional periods of time up to 45 days, if the department determines that the cause of the delay was beyond the control of the applicant. The department shall notify the applicant if it requires additional information to make this determination and the applicant shall have seven days to submit written documentation to establish to the department's satisfaction that the delay was beyond the applicant's control. The department shall notify the applicant whether temporary gambling authority is extended, and the length of the period of extension of temporary gambling authority.

(4) Temporary gambling authority terminates whenever:

(a) The department, pursuant to ARM 23.16.203(1), has notified the applicant of the department's intent to deny the operator license; or

(b) The Department of Revenue has revoked a license or withdrawn temporary authority to purvey alcoholic beverages.

(5) All gambling activities on applicant's premises which require a gambling operator's license must immediately cease upon termination of temporary gambling authority.

Subchapters 6 through 9 reserved

Subchapter 10

Poker Runs

23.16.1001 POKER RUNS (1) As used in this rule, "travel" means to journey by any physical means.

(2) Each participant in a poker run must travel to the designated locations at which playing cards are obtained.

(3) After all cards are accumulated, participants in the poker run shall select the requisite number of cards for the hand in the type of poker being played. (History: 23-5-115, MCA; IMP, 23-5-308, MCA; NEW, 1993 MAR p. 2786, Eff. 11/25/93; NEW, 1994 MAR p. 2834, Eff. 10/28/94.)

Subchapter 11

Card Game Tournaments

23.16.1101 CARD GAME TOURNAMENTS – POKER TOURNAMENT DIRECTORS ASSOCIATION RULES (1) Card game tournaments which involve consideration in order to play and the chance of winning something of value are gambling activities. Publicly played card game tournaments involving gambling activity are limited to the card games known as panguingue and poker, as described by ARM 23.16.1202.

(2)) Except where there is a conflict with state law, department rule, or the applicable authority references, all poker tournaments shall comply with the most recent version of the Poker Tournament Directors Association Rules. The Poker Tournament Directors Association Rules may be obtained from the Gambling Control Division web site www.doj.mt.gov/gaming.

(3) A copy of the tournament rules must be provided to tournament participants and posted as provided for in 23-5-317, MCA.

(4) Every card game tournament involving poker or panguingue must be conducted by a licensed dealer as required in 23-5-309, MCA. In addition, a designated person, who may be one of the licensed dealers, must be present on the premises at all times during the tournament to oversee the conduct of the games and settle disputes.

(5) All winners must be determined at the conclusion of the tournament

based upon points or chips accumulated throughout the course of the tournament. Prizes may only be awarded at the conclusion of the tournament. Any determination of a winner or award of a prize concludes a tournament.

(6) No card game tournament may be conducted as any part of a casino night.

(7) Card game tournaments may not be conducted between the hours of 2 a.m. and 8 a.m. on any day unless the hours for operating a live card game table have been extended by a city or county ordinance.

(8) Card game tournaments must comply with the requirements of Title 23, chapter 5, MCA, and the rules of the department. (History: 23-5-115, MCA; IMP, 23-5-306, 23-5-317, MCA; NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 2007 MAR p. 966, Eff. 6/22/07; AMD, 2011 MAR p. 2628, Eff. 12/9/11; AMD, 2013 MAR p. 1606, Eff. 10/1/13.)

23.16.1102 LARGE-STAKES CARD GAME TOURNAMENTS (1) A licensed operator with a permit to operate at least one live card game table on premises may apply to the department for an annual permit to conduct large-stakes card game tournaments. The application must be submitted on Form 14A, the large-stakes card game tournament permit application, which is available from the department. The annual permit fee must accompany the submission of the application. A large-stakes card game tournament permit is effective July 1 through June 30.

(2) A licensed operator who has been issued a large-stakes card game tournament permit may conduct no more than 16 large-stakes poker tournaments during the permit year.

(3) A large-stakes card game tournament may be conducted for no more than five consecutive days.

(4) The only consideration that may be paid by a participant in a large-stakes card game tournament is an entry fee, and if allowed by tournament rules, a fee paid to reenter the tournament after the participant has been eliminated from competition. Under no circumstances may the total amount paid to participate in a large-stakes card game tournament, including all entry and reentry fees, exceed $1,875.

(5) The department must receive notification on Form 14A of each large-stakes card game tournament at least five business days before the start of the tournament. The permit holder may submit the complete notification Form 14A to the department by mail, FAX or e-mail. The notification of a large-stakes card game tournament must state:

(a) permit holder's name and operator's license number;

(b) type of card game to be played;

(c) number of tables to be used during the tournament;

(d) date(s) of the tournament;

(e) amount of entry fee and reentry fees;

(f) description of all prizes, including the amount of any cash prizes;

(g) whether it is a charitable tournament, including identification of all charitable beneficiaries;

(h) whether it is part of a progressive tournament, including identification of all other locations participating in the progressive tournament;

(i)) the face value of the chips to be used; and

(j) a copy of all tournament rules not included in the Poker Tournament Directors Association Rules.

(6) The department will mail the licensee a permit for each approved large-stakes card game tournament. The large-stakes card game permit must be conspicuously posted in the same manner as the tournament rules posted as provided for in 23-5-317, MCA.

(7) A large-stakes card game tournament permit holder may conduct a large-stakes card game tournament for charitable purposes.

(a) Any large-stakes card game tournament held for charitable purposes must be publicly identified as a charitable tournament and the beneficiaries of the tournament must be publicly identified before the start of the tournament.

(b) If a large-stakes card game tournament permit holder conducts large-stakes card game tournaments for charitable purposes, the first three charitable tournaments conducted during a permit year will not be deducted from the permit holder's annual 16-tournament limit.

(c) If a large-stakes card game tournament is publicly identified as a charitable tournament, no less than 50% of the total of all entry and reentry fees must be paid to charitable, educational, or recreational nonprofit organization(s).

(d) For each charitable tournament, the permit holder conducting the tournament shall maintain for a period of 12 months from the date of the tournament, and provide to the department upon request:

(i) a record of the total amount of entry and reentry fees collected in the charitable tournament;

(ii) a description of how the tournament was publicly identified as a charitable tournament;

(iii) he name and address of each charitable, educational, or recreational nonprofit organization that received a distribution of the charitable proceeds; and

(iv) he amount of money distributed to each charitable, educational, or recreational nonprofit organization.

(8) A large-stakes card game tournament may be part of a progressive card game tournament in which the ultimate prize is not awarded until completion of the final round of the progressive tournament.

(a) The tournament must be publicly identified as being part of a progressive tournament prior to initiation of the tournament.

(b) Each location that participates in the progressive tournament must obtain a large-stakes card game tournament permit.

(c) If the tournament is part of a progressive tournament, prize(s) may include the right to participate in the higher level of tournament play, so long as the value of the higher level tournament is equal to the value of the expected top prize in the tournament. (History: 23-5-115, MCA; IMP, 23-5-317, MCA; NEW, 2013 MAR p. 1606, Eff. 10/1/13; AMD, 2014 MAR p. 1505, Eff. 7/11/14.)

23.16.1103 SMALL-STAKES CARD GAME TOURNAMENTS (1) A licensed operator with a permit to operate at least one live card game table on premises may apply to the department for an annual permit to conduct small-stakes card game tournaments. The application must be submitted on Form 14B, the small-stakes card game tournament permit application, which is available from the department. The annual permit fee must accompany the submission of the application. The small-stakes card game tournament permit is effective July 1 through June 30.

(2) The only consideration that may be paid to participate in a small-stakes card game tournament is a single entry fee which must be paid before the start of the tournament, and may under no circumstances exceed $80. No other fees or costs may be assessed to participate in a small-stakes tournament.

(3) Small-stakes card game tournaments may only be conducted on

permitted card tables, plus one additional card table used only for small-stakes tournament play.

(4) A small-stakes card game tournament permit holder may conduct a small-stakes card game tournament for charitable purposes.

(5) For each charitable tournament, the permit holder conducting the tournament shall maintain for a period of 12 months from the date of the tournament, and provide to the department upon request:

(a) a record of the total amount of entry and reentry fees collected in the charitable tournament;

(b) a description of how the tournament was publicly identified as a charitable tournament;

(c) the name and address of each charitable, educational, or recreational nonprofit organization that received a distribution of the charitable proceeds; and

(d) the amount of money distributed to each charitable, educational, or recreational nonprofit organization. (History: 23-5-115, MCA; IMP, 23-5-317, MCA; NEW, 2013 MAR p. 1606, Eff. 10/1/13; AMD, 2014 MAR p. 1505, Eff. 7/11/14.)

Subchapter 12

Poker and Other Card Games

23.16.1201 DEFINITIONS As used throughout this subchapter, the following definitions apply:

(1) "Ante" means the amount of money or chips each player places into the pot before the first deal of each game.

(2) "Authority reference" means the Official Montana Poker Rulebook (version 2014) and Scarne's Encyclopedia of Card Games, copyright 1983, by John Scarne, pages 18 through 276. These books will be used by the department as the authority on how to play authorized card games. The authority references are adopted and incorporated by reference; copies of Scarne's Encyclopedia of Card Games may be obtained from local bookstores and copies of the Official Montana Poker Rulebook may be obtained from the Gambling Control Division web site www.doj.mt.gov/gaming. The sections of the books cited as authority will not apply where there is a conflict with state law or department rule.

(3) "Banking game" means a game where there is a fund against which everyone has the right to bet, the bank taking all that is lost by the bettors and paying all that is won. The test of such a game is whether the banker pays winnings and suffers losses. The game is not a banking game where the players bet against each other and settle with each other. Games in which any portion of the games includes betting against a fund are considered banking games.

(4) "Blind bet" means the money a player places into the pot before looking at his or her cards.

(5) "To burn a card" means to discard a card from the top of the deck and place it face down on the table according to house rules.

(6) "Card room contractor" means a person licensed by the department to operate one or more live card game tables on an operator's premises.

(7) "Card table" or "live card game table" means a table licensed by the department on which no more than one authorized card game is played at a time.

(8) "Dead card or hand" means a card or hand ruled out of play and ineligible to win any part of the pot.

(9) "Fouled hand" means a hand that either has an improper number of cards or has come in contact with discards.

(10) "Game" means a period in a session of play, from which emerges a winner(s).

(11) "Hand" means the cards dealt to or drawn by a player or the period of time in poker between dealing of the cards and winning of the pot.

(12) "House player" means any person who has a financial relationship with a dealer or an operator including, but not limited to, shills, proposition players, employees, or independent contractors.

(13) "Operator" means an individual licensed to conduct public gambling pursuant to Title 23, chapter 5, MCA.

(14) "Player" means a natural person participating in a live card game specifically authorized in Title 23, chapter 5, MCA, and described by these rules.

(15) "Poker" means a card game played by at least two players who bet against each other and settle with each other and not against the house. Poker is dealt by one dealer on a card table. A player bets on the card (hand) the player holds. There may be an initial ante round and/or blind bet by the players. After the players receive their starting card, there are one or more betting rounds. After all the dealing of cards and betting has occurred for a pot and there are two or more players still in contention, there is a showdown based on a maximum of five cards. The object of the game is for a player to win the pot either by making a bet no other player is willing to match or by having the best hand as described in these rules.

(16) "Pot" means all the bets placed by the players collected together.

(17) "Rake" means a set fee or percentage of the pot assessed by an operator for providing the services of a dealer, table, and location for public play.

(18) "Showdown" means the hands shown by all players remaining in the game.

(19) "Table stakes" means the amount of chips or cash in front of the player prior to the beginning of a hand. (History: 23-5-115, MCA; IMP, 23-5-115, 23-5-311, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 196, Eff. 2/15/91; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 2013 MAR p. 1606, Eff. 10/1/13; AMD, 2014 MAR p. 1505, Eff. 7/11/14.)

23.16.1202 TYPES OF CARD GAMES AUTHORIZED (1) The following card games are authorized by law and must be played only in the manner set out for that game in the applicable authority reference:

(a) the poker games of Texas Hold'em, Draw Poker, Omaha, Seven Card Stud, and their variations as well as general poker rules and practices, according to the Official Montana Poker Rulebook (version 2014); and

(b) other poker variations, as well as the games of bridge, cribbage, hearts, panguingue, pinochle, pitch, rummy, solo, and whist, according to Scarne's Encyclopedia of Card Games, copyright 1983, by John Scarne, pages 18 through 276.

(2) Card games not specifically authorized herein are prohibited.

(3) The department may approve other proposed variations of card games authorized by Title 23, chapter 5, MCA. Banking games are not considered variations of authorized card games that are eligible for department approval. Persons submitting card games for approval must provide the following information to the department:

(a) a complete description of the play of game, including but not limited to, the ranking of cards, betting procedures, number of cards in the showdown, and role of the house in the game; and

(b) the history of game.

(4) The department may require an actual demonstration of any game submitted for approval.

(5) Upon completion by the department of its investigation of a proposed card game variation, the department shall notify in writing the person submitting the card game variation of its intended action. If the person then desires a hearing, he or she must submit a written request to the department within 20 days. From that point onward, all proceedings shall be conducted in accordance with the Montana Administrative Procedure Act and the Attorney General's Model Rules of Procedure.

(6) No variations other than those authorized by the department may be played prior to department approval. (History: 23-5-115, MCA; IMP, 23-5-311, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 196, Eff. 2/15/91; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 2014 MAR p. 1505, Eff. 7/11/14.)

Rules 23.16.1203 and 23.16.1204 reserved

23.16.1205 RANKING OF POKER CARDS AND HANDS (1) The cards in poker are ranked ace, king, queen, jack, ten, nine, eight, seven, six, five, four, three, deuce. The ace is the highest ranked card in high poker and is ranked lower than a deuce in low poker.

(2) The hands in poker are ranked and defined as follows from highest to lowest:

(a) five of a kind - four cards of the same rank and a wild card.

(b) straight flush - five cards of the same suit in sequence. An ace high straight flush is a "royal flush."

(c) four of a kind - four cards of the same rank.

(d) full house - three cards of the same rank and two cards of another rank.

(e) flush - five cards of the same suit.

(f) straight - five cards in sequence.

(g)) three of a kind - three cards of the same rank.

(h) two pair - two cards of the same rank and two cards of another rank.

(i) one pair - two cards of the same rank.

(j) highest card - the highest ranking card in the hand of five unmatched cards.

(3) If two or more hands are tied in the ranking, the hand with the highest rank matched card or cards wins. Otherwise the tie must be broken by the rank of the unmatched cards in the hand.

(4) In the event hands are identical in all aspects except for the suit, players shall evenly divide the pot.

(5) Wild cards may be used in poker. (History: 23-5-115, MCA; IMP, 23-5-311, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90)

23.16.1206 POKER CARDS - PHYSICAL CHARACTERISTICS (1) The cards used in the game of poker must be one complete standard deck of 52 cards plus optional joker(s).

(2) The design on the backs of each card in the deck must be identical and no card may contain any marking, symbol, or design that will enable a player to know the identity of any element printed on the face of the card or that will in any way differentiate the back of that card from any other card in the deck. The backs of the cards may contain a logo.

(3) A blank card, commonly known as a cap card or cutting card, must be

available and used by the dealer to indicate the location for a player's cut or to obstruct a player's view of the bottom card in the deck.

(4) No operator, card room contractor, or dealer may use cards that are taped, defaced, bent, crimped, or deformed in any manner. (History: 23-5-115, MCA; IMP, 23-5-311, 23-5-324, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91.)

Rules 23.16.1207 and 23.16.1208 reserved

23.16.1209 POKER CHIPS - VALUE AND PHYSICAL CHARACTERISTICS

(1) Each poker chip used must be either clearly and permanently impressed, engraved, or imprinted on one side with a specific value of the chip or colored so as to clearly denote the value of the chip. At the operator's or card room contractor's discretion, the other side of the chip may have the operator's or card room contractor's name represented by a related design, symbol, abbreviation, or other identification which would differentiate the operator's or card room contractor's chips from those being used by every other operator or card room contractor.

(2) Each denomination of poker chip must have a different primary color from the other denominations of chips. Each operator or card room contractor may, at his discretion, utilize contrasting secondary colors for any inlays on each denomination of poker chip.

(3) The value and colors of the poker chips must be conspicuously posted within sight of the card table.

(4) Poker chips must be sold for cash only and no credit of any nature may be extended to a person purchasing chips.

(5) The operator or card room contractor must redeem on demand his own chips for cash at the value for which they were sold. (History: 23-5-115, MCA; IMP, 23-5-311, 23-5-324, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91.)

23.16.1210 WAGERS TO BE MADE WITH POKER CHIPS OR CASH ONLY

(1) In games not scored with points, all wagers must be made with poker chips or cash. (History: 23-5-115, MCA; IMP, 23-5-311, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90.)

23.16.1211 PERSONS NOT TO BRING THEIR OWN CARDS OR POKER CHIPS (1) No person may bring to the card table or introduce into a poker game any playing card or cards or any poker chip or chips other than those obtained from the operator or card room contractor. (History: 23-5-115, MCA; IMP, 23-5-311, 23-5-324, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91.)

23.16.1212 PROCEDURE FOR ACCEPTING CASH AT THE POKER TABLE (1) Each dealer who receives currency from a player at a poker table for exchange for poker chips shall observe the following procedures and requirements:

(a) The currency must be spread on the top of the poker table by the dealer accepting it, in full view of the player who presented it.

(b) The amount of currency must be verbalized by the dealer accepting it. (History: 23-5-115, MCA; IMP, 23-5-311, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90.)

Rules 23.16.1213 through 23.16.1215 reserved

23.16.1216 PLAYER RESTRICTIONS (1) There must be at least two players.

(2) No player in a poker game may play other than the player's own hand.

(3) A player shall only play one hand and the player shall make all decisions without advice from any person.

(4) No player or other person may provide any information to any other player or person regarding a player's live or folded hand.

(5) A player may only obtain additional chips from the house and may not pass chips to another player or otherwise exchange them.

(6) Subsections (3) and (4) do not apply to the game of bridge when played according to the rules set forth in the authority reference. (History: 23-5-115, MCA; IMP, 23-5-311, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.1217 USE OF DEVICE PROHIBITED (1) It is unlawful for any player to use any device to assist in keeping track of the card played. (History: 23-5-115, MCA; IMP, 23-5-311, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90.)

23.16.1218 SPECIAL POLICIES (1) Each operator or card room contractor may establish rules of conduct for the players and spectators on the operator's premise as long as the rules do not conflict with state law. (History: 23-5-115, MCA; IMP, 23-5-311, 23-5-324, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91.)

Rules 23.16.1219 through 23.16.1223 reserved

23.16.1224 DEALER RESTRICTIONS (1) Except as provided in (3), in authorized card games using licensed dealers, licensed dealers shall have no financial interest, directly or indirectly, in the outcome of any game which they deal.

(2) Except as provided in (3), card dealers shall receive no share of the rake and must be employees of the licensed operator or card room contractor.

(3) This rule does not prevent licensed operators or card room contractors who are licensed dealers from dealing their own games or receiving a share of the rake. (History: 23-5-115, MCA; IMP, 23-5-308, 23-5-309, 23-5-311, 23-5-324, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2007 MAR p. 848, Eff. 6/22/07; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.1225 HOUSE PLAYERS (1) The operator, card room contractor, or dealer must identify house players upon request.

(2) The operator or card room contractor who is conducting a live card game may use house players only for the purpose of starting and/or maintaining sufficient number of players in the card game.

(3) The operator or card room contractor may:

(a) provide chips owned by the house to a house player for use in a live card game conducted by the operator or card room contractor;

(b) require the house player to return to the operator or card room contractor all house chips that remain with the house player when the house player exits the game;

(c) make the house player an employee who is paid a wage; and

(d) allow a house player to keep all of the winnings or a portion of the

winnings derived from the use of house chips in a game conducted by the operator or card room contractor.

(4) The operator or card room contractor may not ask or require the house player to return any house chips, or the value of any house chips, that the house player lost in a game.

(5) No house players may be used by the operator or card room contractor in a card game tournament. (History: 23-5-115, 23-5-325, MCA; IMP, 23-5-311, 23-5-324, 23-5-325, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2013 MAR p. 1606, Eff. 9/6/13; AMD, 2014 MAR p. 1505, Eff. 7/11/14.)

Rules 23.16.1226 and 23.16.1227 reserved

23.16.1228 DECKS - SHUFFLE AND CUT OF THE CARDS (1) The operator or card room contractor must have two separate decks of cards available at each table. The color of the backs of the cards of the two decks must be a different predominant color. Any player may request that the dealer change decks. If such a request is made, the dealer must switch the use of decks at the end of that hand.

(2) Immediately prior to commencement of play of each game, the dealer must, in front of the players, shuffle all cards so that they are randomly intermixed. (History: 23-5-115, MCA; IMP, 23-5-311, 23-5-324, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91.)

23.16.1229 ANTE, BLIND BET (1) A player may ante for each hand by placing a bet on the table in front of him or her before the first card of the game is dealt. Then, the dealer shall sweep the antes and place them in the pot. Once the first card has been dealt, the ante may not be altered.

(2) For a blind bet to be part of any game, it must be announced prior to beginning the deal. A blind bet may be used in addition to an ante. (History: 23-5-115, MCA; IMP, 23-5-311, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90.)

Rule 23.16.1230 reserved

23.16.1231 RAKE (1) The rake may be a percentage of the pot or a set fee established by the house and must be clearly posted. The rake must remain in a designated area until the pot is awarded. The chip tray cannot be used as a designated rake area. After the pot is awarded, the rake may then be placed in the chip tray, a segregated area, or drop box near the dealer.

(2) A percentage rake must be pulled from the pot in an obvious manner following the completion of each betting round.

(3) A percentage rake must be calculated based on the amount bet in each round and placed in a designated rake area which is clearly visible to all players.

(4) A card dealer who has no interest in the operator's license or card room contractor's license may not receive a share of a rake. (History: 23-5-115, MCA; IMP, 23-5-311, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 2007 MAR p. 848, Eff. 6/22/07.)

23.16.1232 OPERATION OF THE GAMES – TABLE STAKES (1) Play must always proceed in a clockwise direction, with each player's turn to act following the person on the player's immediate right.

(2) The operator or card room contractor may set a minimum buy-in, a maximum buy-in, or both, for each game. The operator or card room contractor

must announce the length of time a player may leave the game and still be considered part of the same playing session.

(3) The dealer must advise each new player of rules of the game being played prior to the ante.

(4) A player may not remove any of his or her chips from the table until the player quits the game. However, a player may use chips to pay for other goods or services in the premises.

(5) Players may only purchase additional chips between hands.

(6) Concealed chips may not be used in play for a game.

(7) Only poker chips and/or cash on the table (table stakes) at the start of a hand may be in play for that pot. (History: 23-5-115, MCA; IMP, 23-5-309, 23-5-311, 23-5-312, 23-5-313, 23-5-324, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.1233 FOULED HANDS (1) A player is responsible for taking reasonable steps to protect his/her hand by holding on to it or by placing one or more chips on it. A player who fails to take reasonable steps to protect his or her hand shall have no relief if that hand is "fouled" as defined in this subsection, or is accidentally taken in by the dealer. A fouled hand or a hand accidentally taken by the dealer is a dead hand, as defined in this subsection.

(2) A protected hand may not be ruled fouled by accidental contact with discards unless it is impossible to completely reconstruct. A player who has a protected hand taken in by the dealer or fouled by discards through no fault of the player is entitled to be refunded from the pot all the chips the player put in the pot on that game. In disputed cases, the dealer's decision is final. (History: 23-5-115, MCA; IMP, 23-5-311, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90.)

23.16.1234 THE DEAL (1) Each card dealt must be the top card of the deck. The order of future ownership of cards that will be in play is not to be disturbed at any time during the deal of a game.

(2) When the dealer burns a card, it must be placed facedown on the table before dealing any round of cards. Burned cards must be kept separate from the discards throughout the hand.

(3) A player facing a bet who announces a fold shall have a dead hand.

(4) All pots must be awarded by the dealer only. When the dealer has awarded the pot and it has been taken in by that player without a claim made against it, the award stands. No player may make an agreement with any other player regarding the pot. Each game must be played to conclusion and the pot awarded to the actual winning player.

(5) The dealer may place a maximum time limit on players during which time a player must act on his or her hand. At the lapse of the time limit, if there has not been a bet to the player, the player must check; if there has been a bet to the player, the player's hand is dead. However, the dealer shall provide a reasonable warning to the player prior to the application of this subsection. (History: 23-5-115, MCA; IMP, 23-5-311, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90.)

Rules 23.16.1235 and 23.16.1236 reserved

23.16.1237 BETTING (1) A player who unintentionally puts fewer chips into the pot than are needed to call a bet must either complete the call or withdraw his or her chips and fold.

(2) If an improper number of chips are bet by a player and the dealer puts the player's chips into the pot without making or hearing an immediate objection, it must be considered a bet by the player.

(3) A player must place his entire bet in front of the player at one time. Unless a player has failed to place the necessary amount of chips to call a bet or to signify a raise, the player may not place additional chips into the pot (no string bets). The dealer may allow a single apparent string bet, but must caution the player that such bets are not allowed.

(4) A player confronted by a bet larger than the player's table stakes may "call" with the amount of chips in front of the player ("all in" bet). The excess part of the bet is either returned to the bettor(s) or used to form a side pot with another player or players by matching the amount called.

(5) A side pot or other wager on the outcome of a hand is prohibited unless an "all in" bet is made as provided for in (4).

(6) In stud poker without a blind, the highest or lowest up card may be designated to initiate action if a house rule is posted to identify which method will be used. (History: 23-5-115, MCA; IMP, 23-5-309, 23-5-311, 23-5-312, 23-5-313, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

Rule 23.16.1238 reserved

23.16.1239 IMPROPER DEAL (1) A card improperly dealt faceup, flashed as it is dealt so a player might know its identity, a joker dealt when the joker is not being used in the game, or a downcard dealt off the table is considered an exposed card. A card exposed by a player is not an exposed card. An exposed card must be replaced.

(2) A misdeal shall cause all the cards to be returned to the dealer for a redeal. (History: 23-5-115, MCA; IMP, 23-5-311, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90.)

23.16.1240 POSTING OF RULES (1) At least the following rules must be posted in a clear, legible manner at each card table or in such a conspicuous location that the player at a card table can readily read such rules.

(a) Games to be played.
(b) Betting limits of the games.
(c) Ante or blind bets (if any).
(d) Number of raises.
(e) Minimum and/or maximum buy-in limits (if any).
(f) $800 pot limit.
(g) Rake percentage or set fee.
(h) Check and raise (yes or no).
(i) Designated wild card(s).
(j) No side pots (except in cases of all-in bets).
(k) No credit.
(l) No passing chips.
(m) No checks.
(n) Maximum number of players in each type of game.
(o) Players must be 18 years old.
(p) House players identified upon request.

(2) When the operator or card room contractor chooses to make a general house rule, that house rule shall be posted on the premises where it can be clearly

seen by players in the card game to which it applies. (History: 23-5-115, MCA; IMP, 23-5-309, 23-5-312, 23-5-313, 23-5-325, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2013 MAR p. 1606, Eff. 10/1/13.)

Rules 23.16.1241 through 23.16.1244 reserved

23.16.1245 CARD ROOM CONTRACTORS LICENSE (1) A person may obtain a card room contractor license by submitting to the department a card room contractor license application (Form 9), which is available upon request from the department.

(2) The application must include:

(a) full identification of the applicant, including legal name, address, phone number, and social security number or federal identification number;

(b) Forms 10 and FD-258 as described in ARM 23.16.102;

(c) a complete set of fingerprints, on Form FD-258 provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement;

(d) financial statements for the applicant's business as described in ARM 23.16.502;

(e) a $150 license fee;

(f) a fee to pay the charges to the department for obtaining background information from fingerprints; and

(g) a copy of each proposed agreement to be entered into with a licensed operator to provide gambling on the operator's premises.

(3) If a card room contractor proposes to amend an existing agreement or enters into additional agreements after obtaining a license, the contractor shall submit to the department for approval a copy of each proposed amended or additional agreement.

(4)) A card room contractor shall not operate a card room under an amended or additional agreement unless and until such proposed agreement is approved by the department. This restriction does not apply when a proposed amendment to a previously approved agreement only extends the time period of the agreement and makes no other changes.

(5) A card room contractor license expires at midnight on June 30 and must be renewed annually by completing a form provided by the department. (History: 23-5-115, MCA; IMP, 23-5-324, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2007 MAR p. 2010, Eff. 12/7/07; AMD, 2009 MAR p. 1260, Eff. 7/31/09.)

23.16.1246 NOTIFICATION OF AGREEMENT TERMINATION (1) If an agreement between a licensed operator and licensed card room contractor is terminated, the operator shall notify the department in writing within 30 days after termination of the agreement. (History: 23-5-115, MCA; IMP, 23-5-324, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91.)

Subchapter 13

Live Keno

23.16.1301 PLAY OF SUCCESSIVE KENO GAMES (1) A player may play

successive keno games by paying for the games in advance only if he or she remains on the licensed premises. A player requesting to play multiple and successive keno is limited to the number of successive games allowed by the house. All games must be paid for in advance and any and all prizes won must be personally claimed by the player after the last game paid for and before the next game begins. Failure to personally claim prizes won by the player after the multiple games played will result in forfeiture of any prizes won.

(2) Any licensee allowing play of successive keno games must clearly post the house limits as to the number of successive games allowed, the requirement for payment in advance for the number of games to be played, the requirement to remain on the licensed premises while the games are played, and the requirement to personally claim any prizes before leaving the premises.

(3) In no case may prizes won on previous games be automatically carried forward to extend play for games beyond the number indicated when the player paid the caller.

(4) Record keeping for the play of successive games must be in accordance with these rules. (History: 23-5-115, MCA; IMP, 23-5-412, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90.)

Rules 23.16.1302 and 23.16.1303 reserved

23.16.1304 APPROVED VARIATIONS OF KENO (1) Approved variations of keno are:

(a) A straight ticket in which a player picks from one to ten numbers and wagers that the numbers will be duplicated entirely or in part from the group of numbers drawn.

(b) A split ticket consisting of two or more straight tickets written on a single keno card. Each group on a split ticket is treated as if it were a single straight ticket.

(c) A way ticket in which a player selects three or more equal groups of numbers which when taken at least two groups at a time comprise several straight ticket combinations.

(d) A combination way ticket in which a player simultaneously combines any or all of the variations described in (1)(a), (b), and (c).

(e)) A king ticket in which a single number, commonly known as a king number, is matched with each group of numbers selected. The king number is treated as any circled number group as used in way and combination way tickets.

(2) A group of numbers resulting from combining smaller groups for way, combination way, or king tickets may not exceed a total of ten numbers. (History: 23-5-115, MCA; IMP, 23-5-412, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2009 MAR p. 2480, Eff. 12/25/09.)

23.16.1305 METHODS OF IDENTIFICATION (1) A player shall clearly identify and separate on his inside keno card as defined in ARM 23.16.2401 any group of numbers selected for a split, way, combination way, or king ticket by drawing a:

(a) line between or circle around each group for a split ticket; or

(b) circle around each group for a way, combination way, or king ticket. (History: 23-5-115, MCA; IMP, 23-5-412, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91.)

23.16.1306 RECORDING REQUIREMENTS - BET LIMITS (1) A keno caller shall record in the margin (sideline) of an outside keno card as defined in ARM

23.16.2401 each wager made by a player, other than for a straight ticket, by using a standard fractional format that identifies the number of wagers by group size (e.g., 2/4 for two wagers each placed on a different group of four numbers). Only the wagers recorded in the margin (sideline) may be winners. The total amount wagered by the player must be written on the front of the outside keno card.

(2) No more than 50¢ may be wagered on each group of numbers on a keno card, and no more than $100 may be awarded as a prize for each winning group of numbers. (History: 23-5-115, MCA; IMP, 23-5-412, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91.)

Subchapters 14 through 16 reserved

Subchapter 17

Sports Pools and Sports Tab Games

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

(1) "Chance" means an opportunity to participate in a sports pool.

(2) "Competitor" means:

(a) a team in a sports event in which teams compete; or

(b) an individual in a sports event in which individuals compete.

(3) "Interval of a sporting event" means the regularly timed periods or naturally occurring breaks in a sports event established by the rules of the event (i.e., quarters in football and basketball games, periods in hockey, or innings in a baseball game) and not any other contrived point, action, event, or episode in the sports event.

(4) "Manufacturer of sports tabs" means a person who manufactures from raw materials or subparts completed sports tabs, sport tab cards, or sports tab games as they are defined by statute and rule.

(5) "Master square" means that portion of the sports pool card used in a traditional, series, or multiple way sports pool that is divided into spaces representing chances purchased by the participants and containing the name or initials of the participant in the sports pool.

(6) "Series of sports events" means two or more sports events involving the same sport that are conducted at the same level (e.g., collegiate, professional).

(7) "Space" means one of the smaller squares into which the master square is divided, which represents a chance in a traditional, series, or multiple way sports pool, and which contains the name or initials of the participant in a sports pool who has purchased that space.

(8) "Sponsor" means a person conducting a sports tab game by selling individual sports tabs.

(9) "Sports event" means an athletic game, race, or contest involving two or more competitors who are natural persons or animals in which the winner is determined by a score or placement.

(10) "Sports pool" means a gambling activity based on a sports event or series of sports events that is conducted on a sports pool card for which consideration, in money, is paid by the participant for a chance to win money or other item of value.

(11) "Sports pool card" means a board, chart, or table used to conduct a sports pool and record the information required in ARM 23.16.1702.

(12) "Sports tab" means a ticket as defined in 23-5-501, MCA.

(13) "Sports tab card" means the card to which 100 sports tabs are randomly attached by a manufacturer of sports tabs and which is used in a sports tab game.

(14) "Sports tab game seller" means a person who:

(a) purchases or otherwise obtains sports tab games from a manufacturer of sports tabs; and

(b) sells sports tab games to sponsors for use in conducting sports tab games.

(15) "Total value of the sports pool" means an amount equal to the number of chances in a sports pool multiplied by the cost per chance and represents the prize(s) to be awarded. (History: 23-5-115, 23-5-512, MCA; IMP, 23-5-501, 23-5-502, 23-5-503, 23-5-512, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; TEMP, AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.1702 SPORTS POOL CARD (1) A traditional, series, or multiple way sports pool must be conducted on a sports pool card containing a master square.

(a) The master square of the card must be divided into spaces arranged in horizontal rows and vertical columns.

(b) The numbers for each horizontal row and vertical column must be randomly assigned after the person conducting the pool closes the pool to additional sale of spaces but prior to the beginning of the sports event or the first event in a series of sport events. Any unsold spaces at the time the numbers are assigned are considered purchased by the person conducting the sports pool and must be marked in a manner indicating that they may not be sold to another person.

(c) Each space must be represented by a number from both the horizontal row and vertical column.

(d) 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.

(2) A sports pool card used to conduct an authorized sports pool must be of adequate size to be easily read by participants and observers.

(3) A participant who wishes to purchase a chance on more than one traditional, series, or multiple way sports pool must select a space or spaces on each of the boards. After the sale of all chances, the master square of any such board may not be duplicated or altered in any manner so as to create additional sports pool boards.

(4) The sports pool card shall, in advance of any sale of any chance, clearly indicate:

(a) rules for conducting the sports pool;

(b) name of the sports event or series of events covered by the card;

(c) name of the competitors in the sports event or series of events, if known;

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

(e) total number of chances available in the pool;

(f) cost to the participant for each chance;

(g) total amount to be paid to each winner;

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

(i) name of the person conducting the sports pool;

(j) name or initials of participants who have purchased chances in the pool;

(k) amount or value of each individual prize and the total value of all prizes; and

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

(5) After each prize is awarded, the names of the winners of each prize must be prominently displayed on each card.

(6) A sports pool card must be retained by the person conducting the sports pool for at least 90 days from the date of the sports event, or last event in a series of sports

events, whichever occurs first, upon which the sports pool was based.
History: 23-5-115, 23-5-512, MCA; IMP, 23-5-502, 23-5-503, 23-5-512, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; TEMP, AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2012 MAR p. 402, Eff. 2/24/12; AMD, 2013 MAR p. 1606, Eff. 9/6/13.

23.16.1703 SALE OF SPORTS POOL CHANCES (1) The total cost of a chance shall not exceed $25 per sports event, or $25 per sports event for a series sports pool as described in 23.16.1705(3)(b), and must be paid in full and in cash at the time the chance is selected.

(2) If the actual number of sports events conducted as part of a series of events is less than the number of events for which chances were sold, the sponsor shall refund to each participant the money paid for chances on those events that were not conducted.

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

(a) may not cancel the sports pool or alter it in any manner; and

(b) shall award all prizes at the end of the sports event or series of events in accordance with the information displayed under ARM 23.16.1702.

(4) In an authorized sports pool in which a competitor is randomly assigned to each participant purchasing a chance in the pool, a participant may not sell, trade, or otherwise transfer his competitor to another person.

(5) All money paid to participate in a sports pool must be maintained separately from all other monies. No portion of the money collected in the sale of sports pool chances, including any share designated for charitable purposes, if any, may be separated from the total amount of proceeds collected on the sports pool board until after the sports event upon which the pool was based has occurred.
History: 23-5-115, 23-5-512, MCA; IMP, 23-5-502, 23-5-503, 23-5-512, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; TEMP, AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2013 MAR p. 1606, Eff. 10/1/13.

23.16.1704 DETERMINATION OF SPORTS POOL WINNERS - PRIZES

(1) There must be at least one winner from among the participants in a sports pool. A winner or winners are determined by the score or place attained by one or more competitors in the sports event upon which the sports pool is conducted.

(2) The prizes awarded to the winner or winners of a sports pool may be cash or merchandise but must not exceed a total value of $2,500 per sports event.

(a) Where the prize awarded is merchandise, the purchase price paid for the item(s) of the merchandise prize is considered to be the value of the prize. Proof of the purchase price of the item(s) of the merchandise prize shall be retained for a period of at least 90 days from the date of the sports event.

(b) Subject to (4), if the value of the merchandise prize is less than the amount of money paid by all participants for the chance to participate, the person conducting the sports pool shall award the balance to the winner(s).

(3) All prizes must be available for distribution to winners immediately at the end of the sports event or at the end of each sports event in a series of events.

(4) A nonprofit organization may retain 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. (History: 23-5-115, MCA; IMP, 23-5-502, 23-5-503, 23-5-512, MCA; EMERG, NEW, 1990 MAR p. 286, Eff. 2/9/90; TEMP, AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2013 MAR p. 1606, Eff. 10/1/13.)

23.16.1705 AUTHORIZED SPORTS POOLS (1) Authorized sports pools described in this rule are identified by a title to distinguish one pool type from another. The controlling factor as to the legality of a sports pool is not the pool's title but the method and manner in which the pool is conducted.

(2) The conduct of an authorized sports pool is subject to the provisions of 23-5-501 through 23-5-503, MCA, and department rules.

(3) The following sports pools are authorized under 23-5-501 through 23-5-503, MCA:

(a) A "traditional sports pool" involving a single sports event with two competitors that is conducted on a sports pool card containing a master square with 25, 50, or 100 spaces. Each space is randomly assigned a unique pair of numbers from the vertical and horizontal axis of the master square.

(i)) A winner is determined by matching the numbers assigned to a space with the only or last digit of the score of each competitor in the sports event at the end of the event.

(ii) Winners may also be determined by the score at predetermined intervals during the event as long there is also a winner and prize awarded based upon the score at the end 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 end of the event.

(b) A "series sports pool" conducted on a master square in conjunction with a series of sports events. The pair of numbers assigned to each space on the master square remains the same 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). Spaces 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 pool; or

(ii) in the same manner as in a traditional sports pool 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.

(c) A "multiple way sports pool" conducted on a master square with multiple sets of numbers randomly assigned to the horizontal and the vertical axes representing certain intervals of a single sports event or individual sports events in a series of events. Winners are determined in the same manner as in a traditional sports pool.

(d) A "selected point sports pool" in which the winner is the participant whose randomly assigned competitor is the first to attain a final score that matches a predetermined number (e.g., 28, 39).

(i) The number of participants in a selected point sports pool is limited to the number of competitors in an established league. Competitors are randomly assigned to the participants and may be assigned for a single week or the duration of the pool.

(ii) If declared by publicly posted rules before the sale of any chances, the pool may be designed to carry over the prize from week to week until a competitor's score matches the preselected score, or until the pool's predetermined conclusion if none of the competitor's scores match the preselected score. Subject to the limits

provided in (d)(iii), participants may be required to increase their wager each week until a match occurs, or until the pool's predetermined conclusion if none of the competitor's scores match the preselected score. A competitor assigned to a participant who fails to pay the increased wager or otherwise drops out of the pool at any time before a winner is declared must be deleted from the list of competitors in the league.

(iii) The pool must be designed so that the total of each participant's wager(s) does not exceed $25, the total value of all prizes equals the total of all wagers, and the total value of all prizes awarded does not exceed $2,500.

(iv) If no competitor obtains the preselected score before the predetermined conclusion to the pool, the prize(s) must be awarded to the participant(s) whose assigned competitor has achieved a score closest to the preselected score, or an alternate score, as may be established by publicly posted rules before the sale of any chances.

(e) A "blackout sports pool" in which the winner is the participant who holds the randomly assigned competitor that first accumulates scores on succeeding weeks whose only or final digit corresponds to all of the numbers zero through nine. A variation of this pool tallies only those scores in which the competitor is the winner of a sports event. The number of participants is limited to the number of competitors in an established league.

(f)) A "weekly sweepstakes sports pool" in which a different competitor or competitors are randomly assigned to participants for each week. The winner is determined by the most or least points scored by the competitor or competitors assigned to a participant or by the most games won by the competitors assigned to a participant. The number of participants is limited to the number of competitors in a league or to the maximum combination of competitors in a league.

(g)) A "multiple competitor sports pool" in which three or more competitors simultaneously compete in a sports event or series of sports events as individuals, not as a team, such as in a car race or golf tournament. Competitors are randomly assigned to participants, and a pool winner is determined by the score or place that the competitor attains in the sports event or series of sports events. (History: 23-5-115, 23-5-512, MCA; IMP, 23-5-502, 23-5-503, 23-5-512, MCA; TEMP, NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2012 MAR p. 402, Eff. 2/24/12; AMD, 2013 MAR p. 1606, Eff. 10/1/13; AMD, 2014 MAR p. 1505, Eff. 7/11/14.)

23.16.1706 PROCEDURES FOR APPROVING VARIATIONS OF AUTHORIZED POOLS (1) A variation of an authorized sports pool may not be conducted unless approved by the department.

(2) A person requesting approval from the department for conducting a variation of an authorized sports pool shall submit the following information to the department:

(a) a detailed description of the operation of the pool, which verifies that:

(i)) there would be at least one winner from among the participants in the sports pool;

(ii) each participant would have an equal chance to win; and

(iii) competitors would be randomly assigned to each participant.

(b) a description of the method of choosing a winner; and

(c) an illustration or sample of the card used to conduct the pool.

(3) The department may request additional information, including a demonstration of the sports pool variation submitted for approval.

(4) After reviewing the proposed sports pool variation, the department shall notify in writing the person submitting the variation 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. (History: 23-5-115, MCA; IMP, 23-5-512, MCA; TEMP, NEW, 1991 MAR p. 1942, Eff. 10/18/91.)

Rules 23.16.1707 and 23.16.1708 reserved

23.16.1709 CONDUCT OF SPORTS POOL FOR PIG, GERBIL, OR HAMSTER RACES (1) A sports pool on races between pigs, gerbils or hamsters must be conducted in accordance with 23-5-501 through 23-5-512, MCA, and ARM 23.16.1701 through 23.16.1706.

(2) A licensee conducting such a sports pool must comply with additional health or safety measures as may be required by the county board of health or local law enforcement officials in which the premises are located. (History: 23-5-115, MCA; IMP, 23-5-502, MCA; NEW, 1993 MAR p. 2786, Eff. 11/25/93; NEW, 1994 MAR p. 2834, Eff. 10/28/94.)

Rules 23.16.1710 and 23.16.1711 reserved

23.16.1712 DESIGN AND CONDUCT OF SPORTS TAB GAME (1) A sports tab game may be conducted 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 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) 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.
(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 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 (2), regardless of whether all sports tabs on the sports tab card are sold to participants before the start of the sports event.
(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.
(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. (History: 23-5-115, MCA; IMP, 23-5-501, 23-5-503, MCA; TEMP, NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2012 MAR p. 402, Eff. 2/24/12; AMD, 2013 MAR p. 1606, Eff. 9/6/13; AMD, 2015 MAR p. 793, Eff. 8/13/15.)

23.16.1713 PURCHASE AND SALE OF SPORTS TABS BY SPONSOR – LICENSURE (1) A sponsor shall purchase a sports tab game only from a licensed sports tab game seller. The sports tab card must display a sports tab decal as provided for in ARM 23.16.1717.
(2) A sponsor may conduct sports tab games only on premises licensed to sell alcoholic beverages for consumption on the premises.
(3) The total cost of each sports tab on the same sports tab card must be identical and may not exceed $25. A participant shall pay cash for the sports tab at the time the tab is selected.
(4) Except for the owner of the licensed premises under (2) who holds a gambling operator's license, every sports tab game sponsor must possess a current Montana Associated Gambling Business License. (History: 23-5-115, 23-5-178, MCA; IMP, 23-5-178, 23-5-502, 23-5-503, MCA; TEMP, NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2011 MAR p. 2628, Eff. 12/9/11; AMD, 2013 MAR p. 1606, Eff. 10/1/13.)

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 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 conclusion of the event.

(3) Except as provided in (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 may be in cash or merchandise, or a combination of cash and merchandise. If merchandise is awarded, the purchase price paid for the merchandise is considered to be the value of the prize. Except as provided in (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.

(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.

(6) All prizes must be available for distribution to winners immediately at the conclusion of the sports event, or at the conclusion of all sports events in a series sports tab game. (History: 23-5-115, MCA; IMP, 23-5-502, 23-5-503, MCA; TEMP, NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2012 MAR p. 402, Eff. 2/24/12; AMD, 2013 MAR p. 1606, Eff. 10/1/13; AMD, 2015 MAR p. 793, Eff. 8/13/15.)

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.

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

(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.

(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. (History: 23-5-115, MCA; IMP, 23-5-503, MCA; TEMP, NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2015 MAR p. 793, Eff. 8/13/15.)

23.16.1716 SPORTS TAB GAME SELLER LICENSE (1) Before conducting business in this state, a sports tab game seller shall obtain a sports tab game seller license from the department. An applicant for a license shall submit to the department:

(a) a sports tab game seller license application. Form FD-258 is available upon request from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site www.doj.mt.gov/gaming;

(b) Forms 10 as described in ARM 23.16.102, available upon request from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site www.doj.mt.gov/gaming;

(c) a complete set of fingerprints, on Form FD-258 provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement;

(d) financial statements for the applicant's business as described in ARM

23.16.502;

(e) a check or money order for $500 made payable to the state treasurer, which includes payment for the:

(i) $100 annual license fee; and

(ii) $400 processing fee to cover the actual cost of processing the license.

(2) Based on the actual cost incurred by the department in determining whether the applicant qualifies for licensure, the department shall refund any overpayment of the processing fee provided for in (1)(e)(ii) or collect an amount sufficient to reimburse the department for any underpayment of actual costs. If an applicant withdraws the application after the department has begun processing the application, the department shall refund any amount not expended as of the date of withdrawal.

(3) The department may waive the application license and processing fee provided in (1)(e)(i) and (1)(e)(ii) if the applicant is licensed as a manufacturer, distributor, or route operator and if the applicant is substantially the same and has no strangers to the license.

(4) A person licensed under this rule must comply with all laws and rules of the State of Montana and the Department of Justice. (History: 23-5-112, 23-5-115, MCA; IMP, 23-5-115, 23-5-502, 23-5-503, 23-5-513, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2002 MAR p. 902, Eff. 4/1/02; AMD, 2002 MAR p. 2441, Eff. 9/13/02; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2005 MAR p. 2333, Eff. 11/24/05; AMD, 2007 MAR p. 2010, Eff. 12/7/07; AMD, 2009 MAR p. 1260, Eff. 7/31/09; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.1717 SALE OF SPORTS TAB GAMES BY SPORTS TAB GAME SELLERS - COLLECTION OF TAX (1) A sports tab game shall be sold only by a licensed sports tab game seller. Sports tab game sellers shall only sell sports tab games that meet the requirements of statute and rule.

(2) A sports tab game seller, either in the conduct of acquiring or selling sports tab games, or in the carrying on of the business and financial arrangements incidental to acquiring or selling sports tab games, shall not pose a threat to the public interest of the state; pose a threat to the effective regulation and control of gambling; or create a danger of illegal practices, methods, or activities.

(3) Before a sports tab game may be sold to a sponsor, the sports tab game seller shall affix a sports tab decal provided by the department in a conspicuous location on the front of the sports tab card. Once affixed, the decal may not be tampered with by any person.

(4) The licensed sports tab game seller shall obtain sports tab decals by submitting a request to the department on a form provided by the department. Upon receipt of the form, the department shall issue sports tab game decals to the sports tab game seller at no cost.

(5) The sports tab game seller shall collect a tax of $1 from the sponsor for each 100 sports tabs sold. (History: 23-5-115, MCA; IMP, 23-5-502, MCA; TEMP, NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1998 MAR p. 1176, Eff. 5/1/98.)

23.16.1718 QUARTERLY REPORTING REQUIREMENTS (1) Within 15 days following the end of each fiscal year quarter, the sports tab game seller shall submit to the department on a form provided by the department a report of the tax proceeds collected under ARM 23.16.1717 by the sports game seller.

(2) If the sports tab game seller fails to file the form or remit the required tax

when due, the following penalties will be assessed:

(a) 0-30 days late = 10% of tax due;

(b) 31-60 days late = 25% of tax due;

(c) 61-90 days late = 50% of tax due; and

(d) 91 days or more late = 100% of tax due.

(History: 23-5-115, MCA; IMP, 23-5-502, MCA; TEMP, NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1998 MAR p. 1176, Eff. 5/1/98.)

23.16.1719 SPORTS TAB GAME SELLER RECORD KEEPING REQUIREMENTS - DECAL INVENTORIES (1) A sports tab game seller shall maintain records by serial number and by manufacturer of all sports tab cards purchased.

(2) A sports tab game seller shall maintain records documenting the total number of sports tab cards sold, the sponsor, and the sports tab tax decal serial number as affixed to each sports tab game card by serial number. The sports tab game seller must maintain these records, and make the records available to the department upon request, for a minimum of 12 full quarters from the previous quarterly tax return due date. Such records shall document:

(a) the total number of sports tab games sold by referencing the sports tab game by game serial number and corresponding sports tab tax decal serial number, including the sponsor's name, license number, address, and phone number; and

(b) the amount and serial numbers of sports tab tax decals remaining in the sports tab game seller's possession.

(3) A sports tab game seller may not transfer sports tab tax decals to any person, except when affixed to a sports tab card. If sports tab game sellers wish to reduce their sports tab tax decal inventory, they may only return the decals to the department. If sports tab game sellers cease to sell sports tab games, they shall file, within 15 days following the date upon which they terminated sales, a report on a form provided by the department, remit any tax due, and return all unused sports tab tax decals.

(4) A sports tab game seller shall return any sports tab tax decals to the department upon request of the department. (History: 23-5-115, MCA; IMP, 23-5-502, 23-5-503, MCA; TEMP, NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.1720 USE OF SPORTS TABS AND SPORTS TAB CARD RESTRICTED (1) A sports tab or sports tab card may be possessed and used only as authorized by statute and rule. A sports tab or sports tab card used for any other purpose is an illegal gambling device. (History: 23-5-115, MCA; IMP, 23-5-501, 23-5-503, MCA; TEMP, NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1998 MAR p. 1176, Eff. 5/1/98.)

Subchapter 18

Video Gambling Machines - General

23.16.1801 STATEMENT OF DEPARTMENT POLICY (REPEALED) (History: 23-5-605, MCA; IMP, 23-5-605, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L.

1989, Eff. 7/1/89; REP, 1990 MAR p. 828, Eff. 4/27/90.)

23.16.1802 DEFINITIONS (1) "Act" means Title 23, chapter 5, part 6, MCA.

(2) "Applicant" means any person who has applied for a permit for a video gambling machine.

(3) "ASD" (audit storage device) means a removable, portable, nonvolatile, electronic, memory storage device that is compatible with a standard port on a personal computer and is used to store electronic records of audit tapes.

(4) "Conventional ROM device" means a device that cannot be altered while installed in a gaming device and may contain executable programs or data that are directly addressed by a processor.

(5) "Designated representative" means a person designated on forms provided by the department to be a representative of the licensed machine owner or operator. This designation is made for the purposes of filing quarterly reporting documents, applying for permits, receiving of forms, etc. However, the permit holder or machine owner remains responsible for maintaining accurate records, filing reports in a timely manner, or paying machine taxes due.

(6) "Destruction of a machine" may be the result of deliberate or accidental causes. However, in all cases a machine shall be considered destroyed only if it results in the machine never being able to function again. Such a claim must be verified to the satisfaction of the department.

(7) "EPROM" means an erasable and programmable read-only memory.

(8) "Game marked spots" means spots selected by a keno game that do not require player interaction.

(9) "Identification decal" means a decal permanently affixed to a video gambling machine and bears its unique identification number issued by the department.

(10) "Logic" means a digital integrated circuit.

(11) "Machine" means an electronic video gambling machine.

(12) "Machine permit" means a permit issued by the State of Montana which authorizes a specific machine to be operated as an electronic video gambling machine.

(13) "Modification" means a change or alteration to a video gambling machine that affects the manner or mode of play of the machine. The term includes any change to the control program, graphics program, or theoretical return percentage. The term does not include:

(a) a change in a video gambling machine from one approved configuration to another approved configuration or from one approved mode of play to another approved mode of play;

(b) replacement of one component with another approved component; or

(c) the rebuilding of a previously approved machine with approved components in an approved configuration.

(14) "Multigame machine" means a video gambling machine that at all times offers for play to the public, within the same video gambling machine cabinet, a combination of at least two of the following types of games that have been approved by the department:

(a) video poker;

(b) video keno;

(c) video bingo; and

(d) video line games.

(15) "PAL" means a programmable array logic or digital integrated circuit.

(16) "Predominant game" means a game, authorized under Title 23, chapter

5, part 6, MCA, the play of which can result in progression to a bonus game, and contributes more than 50% of the overall theoretical return.

(17) "PROM" means programmable read-only memory.

(18) "Royalty" means a defined hand combination, card value, and/or card position in the game of video poker which determines the award of multipliers, credit that can be redeemed for cash, free games, or altered play in subsequent games.

(19) "Simulates the game of draw poker" means plays by or mimics the generally accepted rules or methods of any of the various card games known as "draw poker", whether played against another player or the house. Methods include, but are not limited to, symbols used for or in place of images of playing cards, description, and wagering techniques. For purposes of this definition, a determination that a machine plays the game of draw poker is not solely based on the name of the game.

(20) "Theoretical return" means the calculation of expected payback per 23-5-607, MCA, computed by summing the award and probability products for all paytable combinations.

(21) "Trigger game" means a game authorized under Title 23, chapter 5, part 6, MCA, the playing of which determines progression to bonus games, free games, or altered play in subsequent games.

(22) "Valid ticket voucher" is a ticket produced by a machine that is the result of bona fide play of a gambling machine and not the result of player tampering, manipulation, or a machine malfunction that can be documented.

(23) "Video bingo" means the game of bingo as defined in Montana law when offered and simulated by a video gambling machine which uses video images and a random number generator rather than authorized equipment as defined in 23-5-112, MCA. The image or images projected on the video display of video bingo gambling machines are a material component of the game and shall not simulate an illegal gambling device or enterprise.

(24) "Video gambling machine" means a video poker, video keno, or video bingo machine as defined in 23-5-112, MCA, and a multigame machine as defined in 23-5-602, MCA and in this rule and authorized in 23-5-621, MCA.

(25) "Video keno" means the game of keno as defined in Montana law when offered and simulated by a video gambling machine which uses video images and a random number generator rather than authorized equipment as defined in 23-5-112, MCA. The image or images projected on the video display of video keno gambling machines are a material component of the game and shall not simulate an illegal gambling device or enterprise.

(26) "Video line game" means a game in which numbers and/or symbols are drawn using a random number generator and displayed on a video screen in a variety of alignments or orders with a chance of achieving a defined outcome.

(27) "Video poker" means the games of draw poker, stud, or hold'em as defined in this rule when offered and simulated by a video gambling machine which uses video images and a random number generator.

(a) The images projected on the video display of video poker gambling machines are a material component of the game and shall not simulate an illegal gambling device or enterprise.

(b) Varieties of draw poker, stud, and hold'em must be found in the department's authority reference used for the live game of poker.

(28) "Win" means playing a video game authorized in Title 23, chapter 5, part 6, MCA, as defined by rule, achieving a defined paytable combination and receiving an award that can be redeemed for cash. (History: 23-5-115, 23-5-602, 23-5-621, MCA; IMP, 23-5-111, 23-5-112, 23-5-115, 23-5-151, 23-5-602, 23-5-603, 23-5-607,

23-5-608, 23-5-610, 23-5-611, 23-5-612, 23-5-621, 23-5-637, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 1999 MAR p. 2048, Eff. 9/24/99; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2005 MAR p. 1281, Eff. 7/15/05; AMD, 2006 MAR p. 2131, Eff. 9/22/06; AMD, 2006 MAR p. 2916, Eff. 11/23/06; AMD, 2009 MAR p. 84, Eff. 1/30/09; AMD, 2011 MAR p. 1681, Eff. 1/1/12.)

23.16.1803 APPLICATION FOR PERMIT, FEE, AND PERMIT REQUIREMENTS (1) An application to permit an electronic video gambling machine must be submitted to the Gambling Control Division of the Department of Justice upon forms prescribed by the department. Form 8 is a video gambling machine permit application; Form 8 is available upon request from the department. The application is not complete unless it is dated and signed by the applicant, and contains all information and statements required by the department.

(2) A separate application must be completed for each machine.

(3) The permit fee required by 23-5-612, MCA, must accompany each permit application unless the permit application is for conversion of a permitted video gambling machine to multigame and an agreement (Form 31) has been executed to commit the video gambling machine to be connected to the automated accounting and reporting system.

(4) A machine owner who utilizes an approved accounting and reporting system may submit permit applications through an internet web site provided by the department. (History: 23-5-115, 23-5-621, MCA; IMP, 23-5-602, 23-5-611, 23-5-612, 23-5-621, 23-5-637, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2003 MAR p. 1282, Eff. 6/27/03; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2005 MAR p. 1281, Eff. 7/15/05; AMD, 2006 MAR p. 2131, Eff. 9/22/06.)

23.16.1804 PRORATION OF LICENSE FEE (REPEALED) (History: 23-5-605, MCA; IMP, 23-5-605, 23-5-612(1), MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; REP, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89.)

23.16.1805 REFUND OF PERMIT FEE (1) Except as provided in (2) and (3), no permit fee will be refunded after a permit is issued, regardless of whether the permit is used after issuance.

(2) A permit fee will be refunded if the permit application is denied or withdrawn before issuance of the permit.

(3) A permit fee may be refunded, upon written request, if applicant demonstrates that the permit was issued as the result of an inadvertent input error in the electronic permitting system and the erroneously permitted video gambling machine was not placed in service after issuance of the permit. (History: 23-5-115, MCA; IMP, 23-5-612, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 2003 MAR p. 1282, Eff. 6/27/03; AMD,

2005 MAR p. 1281, Eff. 7/15/05; AMD, 2008 MAR p. 1150, Eff. 6/13/08.)

23.16.1806 DISTRIBUTION OF NET MACHINE INCOME TAX TO LOCAL GOVERNING BODY (REPEALED) (History: 23-5-115, 23-5-605, MCA; IMP, 23-5-605, 23-5-610, 23-5-612(1), MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87, TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; REP, 2003 MAR p. 1282, Eff. 6/27/03.)

23.16.1807 ISSUANCE OF VIDEO GAMBLING MACHINE PERMIT

(1) Upon approval of an application and payment of a permit fee, the department will update and issue to the location a new gambling operator license listing all renewed or newly permitted machines.

(2) The gambling operator must receive the updated operator's license listing all renewed or newly permitted video gambling machines before the video gambling machines may be placed in service.

(3) A new permit will not be required after renewal when a machine owner converts a keno, poker, or bingo to a multigame and commits the machine to connect to the automated accounting and reporting system. (History: 23-5-115, 23-5-605, 23-5-621, MCA; IMP, 23-5-603, 23-5-605, 23-5-611, 23-5-612, 23-5-621, 23-5-637, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 2003 MAR p. 1989, Eff. 9/30/03; AMD, 2006 MAR p. 2131, Eff. 9/22/06.)

23.16.1808 LICENSES ISSUED UNDER TEMPORARY AUTHORITY (REPEALED) (History: 23-5-115, 23-5-605, MCA; IMP, 23-5-177, 23-5-605(2)(a), 23-5-611, 23-5-612, 23-5-617, 23-5-635, MCA; NEW, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; REP, 1993 MAR p. 2786, Eff. 11/25/93; REP, 1994 MAR p. 2834, Eff. 10/28/94.)

23.16.1809 DETERMINATION OF ANNUAL PERMIT SURCHARGE (REPEALED) (History: 23-5-115, MCA; IMP, 23-5-612, MCA; NEW, 2003 MAR p. 1282, Eff. 6/27/03; REP, 2005 MAR p. 1281, Eff. 7/15/05.)

23.16.1810 CHANGE IN DESIGNATION OF NUMBER OF MACHINES FOR ANNUAL PERMIT SURCHARGE (REPEALED) (History: 23-5-115, MCA; IMP, 23-5-612, MCA; NEW, 2003 MAR p. 1282, Eff. 6/27/03; REP, 2005 MAR p. 1281, Eff. 7/15/05.)

23.16.1811 IDENTIFICATION DECAL REQUIRED ON ALL VIDEO GAMBLING MACHINES (1) Upon request from a licensed video gambling machine manufacturer or its designated representative, the department will issue identification decals to be placed upon new video gambling machines prior to their distribution or sale.

(2) The identification decal must be affixed to a machine before a machine is placed in service.

(3) The identification decal must be placed on the machine in such a manner that the identification decal is not obstructed from view and can be permanently maintained.

(4) Upon the request of a licensed manufacturer, distributor, operator, or

route operator, the department will provide replacement identification decals for decals that have been destroyed or removed.

(5) For all video gambling machines validly permitted at the time this rule becomes effective, identification decals may be placed on the machines:

(a) by an employee of the department; or

(b) by a route operator who shall submit audit tapes and documents verifying the placement on the proper machine. (History: 23-5-621, MCA; IMP, 23-5-621, 23-5-637, MCA; NEW, 2006 MAR p. 2131, Eff. 9/22/06.)

Rules 23.16.1812 through 23.16.1820 reserved

23.16.1821 AUTHORITY TO OPERATE (REPEALED) (History: 23-5-605, MCA; IMP, 23-5-605, 23-5-611, 23-5-612(1), MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; REP, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89.)

23.16.1822 PERMIT NOT TRANSFERABLE (1) Except as provided below, any permit to operate an electronic video gambling machine is only valid for the permit holder and the premises identified on the permit application.

(2) When, during the first quarter of the permit year, a gambling operation changes ownership and the application for a new gambling operator license has been approved, the permit fee for the machines on the premises is $25 per machine if the $240 licensing fee has already been paid for that machine for the permit year.

(3) A permit is also restricted to the particular machine approved by the department and identified on the permit application. No additional permit fee will be charged when a licensed premises changes its location and its permitted video gambling machines also move to the new location. No additional permit fee will be charged when permitted video gambling machines are converted to multigame and the owner of the machines has connected or signed an agreement with the department to be connected to the automated accounting and reporting system.

(4) A machine may not be moved from a licensee's premises and placed in service at another premises unless application is made for a new electronic video gambling machine permit, the permit fee is paid, and a new permit is issued. A new permit is required even if a machine has a current, unexpired permit for the former location.

(5) If a machine is destroyed as a result of an accident, criminal act, or natural disaster, and then replaced by a newly permitted machine, the unused portion of the fee paid on the destroyed machine will be applied as a credit to the fee due on the replacement machine. The department may require proof of destruction before credit is applied.

(6) A completed Letter of Withdrawal (LOW) must be submitted to the department when a permitted machine is removed from play and the premises prior to the renewal deadline of each year, June 30. The LOW must be submitted no later than ten days from the date the machine is removed from play. A LOW form is available upon request from the department. The LOW is not complete unless it is dated and signed by the licensee or a designated representative, and contains all of the information and attachments required by the department. Except as provided in (8), the provisions of this rule do not apply to a machine temporarily removed from play for repair service.

(7) Completed LOWs must also be submitted to the department for machines removed from play for the following reasons:

(a) a licensed location is closed for remodeling and machines are out of play for 30 days or more;

(b) a licensed location is opened only seasonally and machines are out of play for 30 days or more; or

(c) the liquor license associated with a licensed location/operator is placed on non-use status and machines are taken out of play for 30 days or more; or

(d) the gambling operator's license has been suspended, revoked, or otherwise terminated.

(8) A LOW must be submitted for machines removed from play for service when the operator determines that it will not be placed back into play during the permit year and will not be renewed at its current location.

(9) In each of the circumstances outlined under (7) and (8), the LOW is due within ten days of the date the requirement for submission has been met. In addition, a new permit will be issued if the machine is placed back in play at the location prior to the end of the fiscal year. The licensee must submit a completed replacement form for issuance of a new permit, and there will be no additional permit fee. (History: 23-5-115, 23-5-621, MCA; IMP, 23-5-603, 23-5-611, 23-5-612, 23-5-621, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 2002 MAR p. 2441, Eff. 9/13/02; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2005 MAR p. 2248, Eff. 11/11/05; AMD, 2006 MAR p. 2916, Eff. 11/23/06; AMD, 2013 MAR p. 1340, Eff. 7/26/13.)

23.16.1823 PRORATION OF PERMIT FEE – RENEWAL (1) The department shall prorate the permit fee for a video gambling machine on a quarterly basis according to the following schedule:

Effective Dates For Permit	Permit Fee
July 1 through June 30	$240
October 1 through June 30	$180
January 1 through June 30	$120
April 1 through June 30	$60

(2) When applying for a video gambling machine permit, a licensed gambling operator shall indicate on the permit application the calendar quarters that he intends to operate the machine.

(3) An application for renewing a permit must be submitted to the Gambling Control Division of the department upon forms prescribed by the department, the permit fee paid, and a new gambling operator license issued which lists the machine for which the permit is issued before a previously permitted machine may be operated after midnight on June 30.

(4) Video gambling machine permits may not be issued to a licensee whose premises are subject to the common ownership restriction contained in 23-5-629, MCA, unless the department receives written application from the common owners that provides written consent and authorization to permit the video gambling machines at one of the identified locations under common ownership.

(5) Licensees whose premises are subject to the common ownership restriction contained in 23-5-629, MCA, but who are authorized to receive permits until September 30, 2005, may upon application receive temporary video gambling

machine permits that will expire on September 30, 2005. Upon or prior to expiration of the temporary permits, the licensee shall file a letter of withdrawal and quarterly report for each video gambling machine as required by law. The department shall only charge a final-quarter fee (e.g., April 1 through June 30) for such temporary permits.

(6) The department may consider the same criteria for renewal of permit as for the original issuance of permit. Failure to satisfy the permit criteria contained in the act and these rules may result in denial of renewal of permit. (History: 23-5-115, 23-5-621, MCA; IMP, 23-5-602, 23-5-611, 23-5-612, 23-5-621 MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2003 MAR p. 1282, Eff. 6/27/03; AMD, 2005 MAR p. 964, Eff. 6/17/05; AMD, 2005 MAR p. 1281, Eff. 7/15/05; AMD, 2006 MAR p. 2131, Eff. 9/22/06; AMD, 2013 MAR p. 1340, Eff. 7/26/13.)

23.16.1824 LICENSEE BUSINESS RELATIONSHIPS (REPEALED) (History: 23-5-605, MCA; IMP, 23-5-605, 23-5-613, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; REP, 1990 MAR p. 828, Eff. 4/27/90.)

23.16.1825 LICENSEE QUALIFICATIONS - DENIAL OF APPLICATION - NONRENEWAL OF LICENSE - FAIR HEARING - JUDICIAL REVIEW (REPEALED) (History: 23-5-605, MCA; IMP, 23-5-605, 23-5-611, 23-5-612(1), MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; REP, 1990 MAR p. 1172, Eff. 4/27/90.)

23.16.1826 QUARTERLY REPORTING REQUIREMENTS (1) Machine owner quarterly reporting requirements are as follows:

(a) For each machine not utilizing an approved automated accounting and reporting system, the machine owner or his designated representative must file with the department a quarterly tax report signed by the machine owner or his designated representative. The forms prescribed and supplied by the department require readings from the mechanical and electronic meters as required by the act. The report will be used by the department to verify payment of all taxes and the winning percentage of the machine as required by the act. The following requirements apply:

(i) The report must be delivered to the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or bear a United States postal service postmark not later than midnight of the 15th of the month following the quarters ending March 31, June 30, September 30, and December 31.

(ii) The mechanical and electronic meter readings must be taken at the same time and recorded for the report within seven days of the close of the operator's last day of business in the reporting quarter. The readings must be supported by the original printed accounting ticket.

(iii) The report is due on each machine after it has been permitted.

(b) For each machine utilizing an approved automated accounting and reporting system, the machine owner or his designated representative shall transmit files to the department with the following information:

(i) for tier I systems, all electronic meter readings and all events set out in ARM 23.16.2105 for each day the machine is in operation, and the last set of meter readings received before the end of the quarter (meter readings received no more than seven days before the end of the quarter) will be used as quarter end readings for purpose of calculating a tax advisory to be sent to machine owners;

(ii) for tier II systems, all electronic meter readings for each week or two week period for which the machine is approved to report, and within 14 days prior to the end of the quarter but not later than seven days after the last day of each quarter, all electronic and mechanical meter readings, along with an indication that it is the last reading to be reported in the quarter; and

(iii) for tier II systems, before- and after-service electronic and mechanical meter readings must be submitted in a format prescribed by the department, if meters are reset or malfunction.

(c) For machines utilizing an approved automated accounting and reporting system, after the final set of meter readings for the quarter is received, the department will electronically transmit a machine income and tax advisory by machine and location to the machine owner. Upon receipt of the machine income and tax advisory, the owner must contact the department within seven days in order to dispute the machine income and tax advisory.

(d) The machine owner will have until midnight of the 15th day of the month following the quarters ending March 31, June 30, September 30, and December 31 to confirm and pay any tax due by electronic check or credit/debit card.

(2) If a machine owner shares machine ownership, or a machine's revenues with another person or business entity, the machine owner or his designated representative must provide upon the same quarterly tax form prescribed by the department in (1), information for each machine as follows:

(a) full identification including name, address, and social security number (or federal identification number) of all persons or business entities involved in the above-mentioned business relationship;

(b) percentages of participation in machine income by each person or business entity involved in the above-mentioned business relationship; and

(c) specific machine income (total collections less amounts paid to players without adjustment for expenses) paid to and/or received by each person or business entity involved in the above-mentioned business relationship.

(3) Form 6 is a quarterly video gambling machine tax report; form 6 is incorporated by reference and is available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site www.doj.mt.gov/gaming.

(4) For the purposes of this rule the term theft includes the physical break-in or entry into the video gambling machine, or manipulation of the machine by external means, resulting in the accumulation of credits available for redemption without the insertion of money. If the gross income reported for a machine has been reduced to reflect a loss resulting from a theft from the machine, the machine owner or his designated representative shall submit the following information together with the quarterly report:

(a) documentation from a law enforcement agency verifying that the theft was reported;

(b) a letter or other document signed by the machine owner's business insurance agent indicating the amount paid or to be paid, if any, by the insurer to cover the loss resulting from the theft; and

(c) the last cash-access accounting ticket generated before the theft occurred and the first cash-access accounting ticket generated after the theft occurred. The

tickets will be used by the department to calculate the maximum amount that may be deducted for a loss resulting from a theft.

(d) In all cases the theft loss must be supported by records required in ARM 23.16.1827.

(5) If the machine owner or his designated representative fails to file the quarterly tax report or remit the required gross machine income tax when due, the following penalties will be assessed:

(a) 0 - 30 days late = 10% of tax due;

(b) 31 - 60 days late = 25% of tax due;

(c) 61 - 90 days late = 50% of tax due;

(d) 91 days or more = 100% of tax due.

(6) The imposition of these penalties does not preclude the department from taking further action against the machine owner responsible for preparing the report, including, but not limited to, temporary cease and desist orders under 23-5-136, MCA. (History: 23-5-115, 23-5-621, MCA; IMP, 23-5-136, 23-5-610, 23-5-621, 23- 5-637, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 1172, Eff. 4/27/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 1999 MAR p. 2048, Eff. 9/24/99; AMD, 2006 MAR p. 2131, Eff. 9/22/06; AMD, 2009 MAR p. 2480, Eff. 12/25/09; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.1826A REPORTING FREQUENCY FOR APPROVED AUTOMATED ACCOUNTING SYSTEMS – EXCEPTIONS (1) Tier I systems shall transmit the information required by ARM 23.16.2105 each day.

(2) Tier II systems shall transmit the information required by ARM 23.16.2105 at either seven day or 14 day reporting intervals. The election of a specific reporting interval shall be made by the machine owner or a designated representative on the application to utilize an approved automated accounting system (form 34). Route operators shall notify the division of their election of reporting intervals, or change of election of reporting intervals, on form 34(a).

(3) A machine owner or a designated representative who fails to timely transmit the required information will receive a notice from the department identifying the reporting failure. Prior to the next reporting interval, the machine owner or a designated representative must respond to the department notice with a statement explaining the reason for the reporting failure.

(4) When the explanation for the reporting failure does not demonstrate the inability of the machine owner or a designated representative to physically access the machine in order to meet the reporting interval, or when multiple reporting failures demonstrate an inability to physically access the machine, the department may require more frequent reporting intervals, require longer periods of record retention, or take any action authorized under 23-5-136, MCA. (History: 23-5-621, MCA; IMP, 23-5-610, 23-5-621, 23-5-637, MCA; NEW, 2006 MAR p. 2916, Eff. 11/23/06; AMD, 2009 MAR p. 2480, Eff. 12/25/09; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.1827 RECORD KEEPING REQUIREMENTS (1) Machine operation records must be maintained and made available for inspection by the department upon request. The records must be maintained by the machine owner. The records must provide all necessary information the department may require to ensure

operation of machines in compliance with the law.

(2) Except as provided in (4), records to be maintained by machine owners continuing to file reports and maintain records manually and those using tier II automated accounting and reporting systems must include:

(a) a correct lifetime audit ticket as provided for by department rules, which must include progressive accounting data if applicable. For those reporting manually and on a tier II automated accounting and reporting system on a 7-day reporting interval, the lifetime audit ticket must be printed for each machine at least once every seven days. For those reporting on a tier II automated accounting and reporting system on a 14-day reporting interval, the lifetime audit ticket must be printed for each machine at least once every 14 days;

(b) the exact copy of all printed ticket vouchers and audit tickets, i.e. the duplicate audit tape(s) created at the time each audit or payout ticket is printed;

(c) readings of each machine's mechanical meters at least once every two weeks;

(d) documentation of total actual cash counted for the licensed location for the same period as the mechanical meter readings were taken as required in (2)(c); and

(e) a three-way reconciliation of the total actual cash count required in (2)(d), and the total cash activity reflected by both the electronic and mechanical meter readings required in (2)(b) and (c). The three totals, actual cash, electronic readings, and mechanical readings must be calculated and reconciled for the same time period and must be completed at least once every two weeks. Any material difference must be documented and the reason for the difference substantiated. A material difference means a difference in the amount of cash counted and cash reflected by the meters that is the lesser than 5% of the total monies placed in the machines during the reconciliation time period or $100. If the difference is due to gambling device malfunction(s), the device(s) must be taken out of play, repaired and service form(s) submitted to the department, before the machine is returned to play. Following a material difference, the machine owner must maintain documentation of the cash count required by (2)(d), by individual machine, until notification is submitted to the department to substantiate that the malfunction has been corrected.

(3) Machine owners using tier I accounting and reporting systems must maintain the following records:

(a) a correct lifetime audit ticket as provided for by department rules, which must include progressive accounting data if applicable. The lifetime audit ticket must be printed for each machine at least once every 7 days; and

(b) the exact copy of all printed ticket vouchers and audit tickets, i.e., the duplicate audit tape(s) created at the time each audit or payout ticket is printed.

(4) Machine owner's records required by this rule must be maintained in the State of Montana by the machine owner or his representative for the following periods:

(a) machine owners who continue to file reports and maintain records manually must retain those records a minimum of 12 full quarters from the previous quarterly report due date; and

(b) machine owners using a tier I or tier II system must maintain records for a period of four quarters.

(5) Records to be maintained by machine owners on machines with approved audit storage devices (ASD units) must include:

(a) all video gambling machine records required pursuant to 23.16.1902 either on the original ASD device or other electronic media which allow for retrieval

and review or transmittal to the department for review; and

(b) all other machine records as required in (2)(c), (d), and (e).

(6) If the machine owner does not keep records as required in this rule, the department may estimate the tax by utilizing the best available method, e.g., average net daily income for a region, estimate based on historical performance, or a gross-up based on established payouts. The department is not limited to the aforementioned methods of estimating income. However, any method used must be justifiable given the factual circumstances, and is subject to administrative and judicial review.

(7) For any violation of the record keeping requirements found in this rule, the department may:

(a) act by means of temporary cease and desist orders under 23-5-136(1)(a), MCA; or

(b) impose civil penalties under 23-5-136(1)(b), MCA. (History: 23-5-115, 23-5-621, 23-5-637, MCA; IMP, 23-5-115, 23-5-136, 23-5-610, 23-5-621, 23-5-628, 23-5-637, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 1999 MAR p. 2048, Eff. 9/24/99; AMD, 2006 MAR p. 2916, Eff. 11/23/06; AMD, 2008 MAR p. 1804, Eff. 8/29/08; AMD, 2009 MAR p. 84, Eff. 1/30/09.)

23.16.1828 GENERAL REQUIREMENTS OF OPERATORS, MANUFACTURERS, MANUFACTURERS OF ILLEGAL DEVICES, DISTRIBUTORS, AND ROUTE OPERATORS OF VIDEO GAMBLING MACHINES OR PRODUCERS OF ASSOCIATED EQUIPMENT (1) Every operator, manufacturer, manufacturer of illegal devices, distributor, or route operator must retain for a period of three years all records relating to the possession, destruction, purchase, lease, rental, or sale of any gambling device. For purpose of this rule, three years means a minimum of 12 full quarters from the previous quarterly tax return due date. The information detailed in (2)(a), (b), (c), and (d) must be retained on each individual machine.

(2) An operator, manufacturer, manufacturer of illegal devices, distributor, or route operator must provide the division with a current list of all video gambling machines owned at the times of application and licensure and provide status reports as required by the department. These reports must include the following information:

(a) manufacturer;

(b) model;

(c) serial number;

(d) location machine is stored.

(3) Every operator, manufacturer, distributor, route operator, or producer of associated equipment desiring to sell, distribute, lease, or rent video gambling machines or associated equipment in this state or ship video gambling machines to a final destination within the state must:

(a) be issued and maintain all required federal, state, county, and municipal licenses and registrations;

(b) furnish to the department monthly reports identifying the quantities, serial number, manufacturer and model number of each machine such person destroys, purchases, or sells, and such other information the department may determine is

necessary to regulate and control video gambling machines in accordance with the act and these rules. All such monthly reports must be filed with the department within 15 days after the end of each required monthly reporting period. The department shall not approve a permit without prior notification of shipment by the machine's manufacturer.

(4) Every manufacturer or distributor proposing to import video gambling machines not approved under ARM 23.16.1901 for research and development or proposing to export legal gambling machines from the state must:

(a) comply with the applicable requirements of ARM 23.16.2001(5) and report such shipments to the department on form 22; and

(b) receive prior approval. If the department has taken no action within five working days of receipt of form 22, the application for approval is deemed granted. (History: 23-5-115, MCA; IMP, 23-5-115, 23-5-611, 23-5-614, 23-5-621, 23-5-625, 23-5-631, MCA; NEW, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; TRANS & AMD, from ARM 23.16.1917, 1997 MAR p. 404, Eff. 2/25/97; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2009 MAR p. 2480, Eff. 12/25/09.)

23.16.1829 ADVERTISING RESTRICTIONS FOR VIDEO GAMBLING MACHINES (1) A licensed video gambling machine operator, distributor, route operator, or manufacturer may only advertise the play, lease, or sale of video gambling machines authorized by Title 23, part 5, MCA. No signs or advertisements may make any explicit or implicit reference to illegal gambling devices, such as slot machines, including equipment associated with illegal gambling devices. (History: 23-5-115, 23-5-603, 23-5-621, MCA; IMP, 23-5-603, MCA; NEW, 2011 MAR p. 1681, Eff. 1/1/12.)

Subchapter 19

Video Gambling Machine Specifications

23.16.1901 GENERAL SPECIFICATIONS OF VIDEO GAMBLING MACHINES (1) Each video gambling machine model or modification must:

(a) be inspected in the state for approval and licensure by the department. The department may inspect any machine sold or operated in the state. Any approval granted by the department to a person is not transferable. The department must be allowed immediate access to each machine. Keys to allow access to a machine for purposes of inspection may be provided to the department or must be immediately available at the premise. Machines for which a substantial modification or a series of minor modifications whose total result is substantial must meet all of the specific law or rule requirements in effect at the time of submission. Only those machines which are owned or operated in Montana, and to which the submitted modification will be applied are required to meet those specifications in effect at time of submission. The department's determination that a modification is substantial may be contested pursuant to the Montana Administrative Procedure Act;

(b) be operated by the players in the manner specified by this part;

(c) not have any switches, jumpers, wire posts, or other means of manipulation that could affect the operation or outcome of a game. The machine may not have any functions or parameters adjustable by and through any separate video display or input codes except for the adjustment of features that are wholly cosmetic or other operational parameters as approved by the Gambling Control

Division. This is to include devices known as "knockoff switches;"

(d) offer only those games defined as video gambling in Title 23, chapter 5, MCA, and operate in the following manner:

(i) in the case of poker, after the initial cards have been dealt, the player may be allowed to raise his wager but the player may not exceed the overall statutory bet limit;

(ii) the game must display the combinations for which credits will be awarded and the number of credits awarded for each combination;

(iii) one credit may not exceed twenty-five cents in value;

(iv) he machine must have locked doors to two separate areas, one containing the logic board and software for the game and the other housing the cash. Conventional ROM devices must be accessible from the front of the machine. Access from one area to another must not be allowed;

(v) the machines may have:

(A) two mechanisms that accept coins, referred to as "mechanism 1" and "mechanism 2." These mechanisms must have devices referred to as "lockouts" which prohibit the machine from accepting coins during periods when the machine is inoperable;

(B) a mechanism that accepts cash in the form of bills that do not exceed $100;

(vi) in the case of poker each machine must use a color display with images of cards that closely resemble the standard poker playing cards;

(vii) the machine must be capable of printing a ticket voucher for all credits owed the player at the completion of each game. A valid ticket must contain the following in a format prescribed by the department:

(A) the name of the licensed establishment;

(B) the name of the city, town, or county in which the licensed establishment is located;

(C)) the machine serial number;

(D)) the video gambling machine identification number (VGMID) assigned to the machine;

(E) the time of day in hours and minutes in a 24-hour format. The clock must automatically account for daylight savings time and indicate "S" for standard time and "D" for daylight savings time;

(F)) the current date;

(G) the program name and revision;

(H)) the value of the prize in numbers;

(I) the value of the prize in words;

(J) the sequential number of the ticket voucher;

(K) this notice clearly displayed on the ticket: "Ticket Void After 48 hours."

(viii) he printing mechanism must be located in a locked area of the machine to ensure the safekeeping of the audit copy. The printing mechanism must have a paper sensing device that upon sensing a "low paper" condition will allow the machine to finish printing the ticket and prevent further play. The machine must recognize a printer power loss occurrence and cease play until power has been restored to the printer and the machine is capable of producing a valid ticket;

(ix) he machine must have nonresettable mechanical meters of at least seven digits, housed in a readily accessible locked machine area. These meters must be in a configuration prescribed by the department. The mechanical meters must be manufactured in such a way as to prevent access to the internal parts without destroying the meter. Meters must be hardwired (no quick connects will be allowed in the meter wiring system). The department may require and provide a

validating identification sticker to attach to the mechanical meters to verify the meters are assigned to a specific licensed machine. The meters must keep a permanent record of:

(A) total dollars accepted by the coin acceptor mechanism(s), and bill acceptor (if applicable);

(B) total dollars played;

(C)) total dollars won;

(D)) total dollars paid;

(x) the machine must contain electronic metering, using meters that record and display the following on the video screen in a format prescribed by the department:

(A) total cents in mechanism(s) 1 and 2 (if applicable);

(B) total cents through the bill acceptor (if applicable);

(C)) total cents, total cents played, total cents won, and total cents paid;

(D)) total games played and total games won;

(E) total cents played and total cents won for each distinct paytable available for play; and

(F) any other metering required by these rules;

(xi) he machine must issue by activation of an external key switch, an accounting ticket containing a performance synopsis of the machine and progressive accounting data if applicable. The printing of all totals from the electronic meters shall occur automatically each time access occurs to either the logic compartment or any compartment where cash is collected. Whenever electronic meters are reset, each machine must produce a full accounting ticket both before and after each resetting. The tickets must be in the format prescribed by the department and contain:

(A) the name of the licensed establishment;

(B) the name of city, town, or county in which the licensed establishment is located;

(C)) the serial number of the machine;

(D)) the video gambling machine identification number (VGMID) assigned to the machine;

(E) the time of day, in hours and minutes in a 24-hour format;

(F)) the current date;

(G) the program name and revision number; and

(H)) the electronic meter readings required by the department;

(xii) the machine and any peripheral electronic device must have an identification tag permanently affixed to the machine by the manufacturer. The tag must be on the right-hand side, upper left corner of the machine or peripheral electronic device or in another location approved by the department and must include the following information:

(A) manufacturer;

(B) serial number;

(C) model;

(D) date of manufacture; and

(xiii) he face of the machine must be clearly labeled so as to inform the public that no person under the age of 18 years is allowed to play;

(xiv) each machine and peripheral electronic device must pass a static test that is determined by the department; and

(xv) a machine shall be equipped with a surge protector that will feed all A.C. electrical current to the machine and a backup power supply capable of maintaining for a 30-day period the accuracy of all electronic meters, date, and time during

power fluctuations and loss. The battery must be in a state of charge during normal operation of the machine. Manufacturers incorporating either the use of E2 PROMs or a lithium battery for memory retention will be considered to meet this requirement; and

(e) video gambling machines submitted for approval on or after October 1, 2003 must comply with ARM 23.16.1920.

(2) Any and all modifications made to an approved video gambling machine must be submitted to the department for approval prior to installation.

(3) The department may suspend, or revoke a permit or revoke approval of a machine at any time when it finds that any machine or machine component does not comply with statutes and rules governing electronic video gambling machines in effect at the time of approval. The department may also suspend, or revoke the licenses or revoke approval of other similar model machines or machine components in use in the state. (History: 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; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; EMERG, AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2000 MAR p. 1638, Eff. 6/30/00; AMD, 2002 MAR p. 2441, Eff. 9/13/02; AMD, 2003 MAR p. 1282, Eff. 6/27/03; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2005 MAR p. 1281, Eff. 7/15/05; AMD, 2007 MAR p. 42, Eff. 1/12/07; AMD, 2011 MAR p. 1681, Eff. 1/1/12; AMD, 2011 MAR p. 2628, Eff. 12/9/11.)

23.16.1902 AUDIT DATA STORAGE DEVICES (1) The department may approve a VGM (video gambling machine) utilizing an ASD (audit storage device) for use in place of duplicate printed audit tapes. Each VGM providing ASD support must be reported on a tier I or tier II system and operate in the following manner:

(a) the ASD must have a minimum capacity of 2GB;

(b) at a minimum, record information on the ASD as required in ARM 23.16.1901(1)(d)(vii) and(xi) as defined by the department;

(c) at a minimum, maintain current record of $$IN, $$PL, $$WN, $$PD electronic meters as defined by department;

(d) utilize directory and file layout specifications for all ASD data as provided by the department;

(e) retain ASD data records for a minimum of four quarters;

(f) record required data and confirm in real time;

(g)) the ASD must reside in a locked area within the VGM;

(h) each record stored on the ASD must be digitally signed as defined by the department;

(i)) the department will administer the distribution of RSA public encryption keys to manufacturers as defined by the department;

(j)) the department must be able to authenticate records through the use of an external software utility and RSA private encryption keys as defined by the department;

(k) game play will be suspended when:

(i) an ASD is not present;

(ii) communication with an ASD is lost;

(iii) data written to an ASD does not conform to file conventions and cannot be corrected by the VGM;

(iv) he ASD has insufficient memory to record the largest record possible;

(v) a newly installed ASD has unexpected files, directories, or contains files from a machine with a different VGMID;

(l)) ASD data should not be cleared during a Lifetime Memory Clear;

(m) ASD data must be displayed on VGM via use of the audit key; and

(n) ASD data must display externally on personal computers using common applications such as Word or Excel. (History: 23-5-621, 23-5-637, MCA; IMP, 23-5-112, 23-5-115, 23-5-616, 23-5-621, 23-5-628, 23-5-637, MCA; NEW, 2009 MAR p. 143, Eff. 1/30/09.)

23.16.1903 EXPIRATION DATE FOR VIDEO GAMBLING MACHINE TICKET VOUCHERS (1) Except as provided in (2), location operators must immediately pay all valid ticket vouchers in full and in cash upon presentation of the ticket for payment.

(2) A video gambling machine ticket voucher that is printed more than 48 hours before it has been presented for payment may, at the discretion of the location operator, be deemed invalid and not payable, only if there has been notice to the player of the expiration period by the presence of a sign that is not less than 24 inches by 36 inches displayed in a licensed premises at the time of play, in plain view of the gambling public, which reads "Promptly Redeem Your Win Tickets -- Tickets Void After 48 hours;" and

(a) for machines and programs approved prior to adoption of this rule, the face of the video gambling machine ticket voucher paper has been preprinted with the expiration notice required by ARM 23.16.1901; or

(b) for machines and programs approved after adoption of this rule, the expiration notice is printed on the face of the video gambling machine ticket voucher as required by ARM 23.16.1901. (History: 23-5-115, 23-5-608, MCA; IMP, 23-5-608, MCA; NEW, 2011 MAR p. 1681, Eff. 10/1/11.)

Rule 23.16.1904 reserved

23.16.1905 SAFETY SPECIFICATIONS (1) A video gambling machine must include the following hardware specifications:

(a) All electrical and mechanical parts and design principles shall follow acceptable industrial codes and standards in both design and manufacture.

(b) A video gambling machine shall be designed to ensure that the player will not be subjected to any physical, electrical, or mechanical hazards. (History: 23-5-605, 23-5-621, MCA; IMP, 23-5-606, 23-5-607, 23-5-609, 23-5-621, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; EMERG, AMD, 1990 MAR p. 828, Eff. 4/27/90.)

23.16.1906 GENERAL SOFTWARE SPECIFICATIONS FOR VIDEO GAMBLING MACHINES (1) Each video gambling machine must meet the following specifications:

(a) the random number selection process shall conform to an acceptable random order of occurrence and uniformity of distribution as defined by the department;

(b) any variable data, e.g., location name, shall not reside on conventional ROM storage devices that contain game programs;

(c) the game program must not interfere in any way with expected random

play;

(d) all electronic meters must be eight digits in length except those used for tracking currency which must be ten digits in length;

(e) for any game played, the paytable for that game must be prominently displayed and understandable to the player;

(f) poker, keno, bingo, or video line game programs submitted for approval on or after October 1, 2003 and all multigame programs must comply with ARM 23.16.1920;

(g) prominently displays the message "Promptly Redeem Your Win Tickets – Tickets Void After 48 hours" when the printing of a cash ticket is initiated;

(h) the duration of a game shall be the period of play for a game authorized under Title 23, chapter 5, part 6, MCA, starting with the utilization of the first random number from the "previously frozen field" and ending with the last utilized random number from the "previously frozen field"; and

(i) paytables must be static and displayed in a form that is readable and clearly defined prior to the start of the game.

(2) A machine may have a personality program that includes but is not limited to the following:

(a) paytable;

(b) graphics;

(c) deal;

(d) optional features to include but not be limited to:

(i) raise;

(ii) auto-bet;

(iii) hold and discard;

(e) personality program number.

(3) Unattended or auto-play is prohibited except for free games initiated by or as a result of a trigger game.

(4) Notwithstanding any other rule to the contrary, on or after June 30, 1997, the image or images projected on each video gambling machine shall not simulate, in part or in whole, an illegal gambling device or enterprise. (History: 23-5-115, 23-5-621, MCA; IMP, 23-5-602, 23-5-603, 23-5-607, 23-5-608, 23-5-611, 23-5-621, 23-5-631, 23-5-637, MCA; NEW, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; EMERG, AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 2000 MAR p. 1638, Eff. 6/30/00; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2005 MAR p. 1281, Eff. 7/15/05; AMD, 2011 MAR p. 1681, Eff. 1/1/12; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.1907 SOFTWARE SPECIFICATIONS FOR VIDEO POKER MACHINES (1) Each video poker machine must meet the following specifications for approval for use within the state of Montana. In order to be approved the machine must:

(a) use a deck of cards consisting of 52 standard playing cards, up to two jokers may also be used;

(b) conform to the standard rules of poker in the following manner:

(i)) the theoretical return of a royalty must be less than 50% of the overall theoretical return;

(ii) "hand" means the cards dealt to or drawn by a player and retained at the completion of a game;

(c) deal the initial cards from the top of the frozen field;

(d) replace any discarded cards, if applicable, with remaining cards in the frozen field starting with the top of the frozen field and drawing any additional cards

in the order of that frozen field; and

(e) display the winning hands and the number of credits awarded for that hand. (History: 23-5-621, MCA; IMP, 23-5-602, 23-5-607, 23-5-621, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 2000 MAR p. 1638, Eff. 6/30/00; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2005 MAR p. 1281, Eff. 7/15/05.)

23.16.1907 SOFTWARE SPECIFICATIONS FOR VIDEO POKER MACHINE

(1) Each video poker machine must meet the following specifications for approval for use within the state of Montana. In order to be approved the machine must:

(a) use a deck of cards consisting of 52 standard playing cards, up to two jokers may also be used;

(b) conform to the standard rules of poker in the following manner:

(i) the theoretical return of a royalty must be less than 50% of the overall theoretical return;

(ii) "hand" means the cards dealt to or drawn by a player and retained at the completion of a game;

(c) deal the initial cards from the top of the frozen field;

(d) replace any discarded cards, if applicable, with remaining cards in the frozen field starting with the top of the frozen field and drawing any additional cards in the order of that frozen field; and

(e) display the winning hands and the number of credits awarded for that hand. History: 23-5-621, MCA; IMP, 23-5-602, 23-5-607, 23-5-621, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 2000 MAR p. 1638, Eff. 6/30/00; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2005 MAR p. 1281, Eff. 7/15/05.

23.16.1908 SOFTWARE SPECIFICATIONS FOR VIDEO KENO MACHINES

(1) Each video keno machine must meet the following specifications for approval for use within the state of Montana. In order to be approved the machine must:

(a) display a fixed playing field of numbers from 1 - 80;

(b) only accept bets on a minimum of two spots and a maximum of ten spots per game;

(c) display the balls picked;

(d) conform to standard rules of keno except:

(i) game marked spots can be used to trigger free games, games with altered play, bonus games, award multipliers, or additional credit that can be redeemed for cash;

(ii) the position, characteristics, or order of a drawn ball can affect the paytable; and

(e) display the total number of player spots picked at the end of each game, display the number of balls drawn that matched the players' picks (this may be shown as three out of eight, eight out of ten, etc.) and display any credits awarded for these combinations. (History: 23-5-602, 23-5-621, MCA; IMP, 23-5-602, 23-5-621, MCA; NEW, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 2005 MAR p. 1281, Eff. 7/15/05; AMD, 2011 MAR p. 2628, Eff. 12/9/11.)

23.16.1909 SOFTWARE SPECIFICATIONS FOR VIDEO BINGO MACHINES (1) Each video bingo machine must meet the following specifications for approval within the state of Montana. In order to be approved the machine must:

(a) utilize a field of numbers from one to 75;

(b) provide a card or cards that contain 24 numbered spaces per card and one free spot. No cards may be identical;

(c) generate cards by utilizing a random number generator;

(d) conform to standard rules of bingo except:

(i)) the position of a drawn ball can be a material component of the game; and

(ii) each game need not produce a bingo.

(e) display the number of balls picked and the credits awarded for the number of balls drawn in order to obtain a bingo;

(f) allow the player the choice of cards on which to play. All winning cards must be available for display on the screen, including any that may be played by the machine in any game; and

(g) designate the winning arrangement of numbers prior to commencing play. (History: 23-5-621, MCA; IMP, 23-5-621, MCA; NEW, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 2000 MAR p. 1638, Eff. 6/30/00; AMD, 2005 MAR p. 1281, Eff. 7/15/05.)

23.16.1909A SOFTWARE SPECIFICATIONS FOR VIDEO MULTIGAME MACHINES (1) Each video multigame machine must meet the following specifications for approval for use within the state of Montana, if applicable:

(a) offer at least two approved types of games as follows:

(i) video poker games that comply with ARM 23.16.1907;

(ii) video keno games that comply with ARM 23.16.1908;

(iii) video bingo games that comply with ARM 23.16.1909; and

(iv) video line games that comply with ARM 23.16.1907A. (History: 23-5-115, 23-5-602, 23-5-621, MCA; IMP, 23-5-602, 23-5-603, 23-5-608, 23-5-611, 23-5-621, 23-5-631, 23-5-637, MCA; NEW, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2005 MAR p. 1281, Eff. 7/15/05; AMD, 2011 MAR p. 1681, Eff. 1/1/12.)

23.16.1910 RESTRICTIONS ON OPTIONAL GAME FORMAT OR FEATURES (1) The department shall determine what optional features may be allowed and such features must be approved by the department prior to inclusion in a machine's game format. For video poker machines the department will evaluate only those draw poker, stud poker, and hold'em games described in the authority references identified in the department's card game rules. (History: 23-5-115, MCA; IMP, 23-5-602, 23-5-607, 23-5-608, 23-5-621, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642,

L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 2005 MAR p. 1281, Eff. 7/15/05.)

23.16.1910A BONUS GAMES (1) The department may approve bonus games that can be awarded to the player as a result of playing video poker, keno, bingo, or video line games under the following conditions:

(a) before a bonus game may be awarded to the player, the player must achieve a defined outcome by playing a video game authorized in Title 23, chapter 5, part 6, MCA; and

(b) the theoretical return of all bonus games must be less than 50% of the overall theoretical return for that game.

(2) Bonus games can determine any one or more of the following at no risk to the player:

(a) paytable multipliers to be applied to the award obtained in the trigger game;

(b) paytables and/or paytable multipliers for subsequent games;

(c) the number of free video games awarded as authorized in Title 23, chapter 5, part 6, MCA; or

(d) the award of credit that can be redeemed for cash.

(3) Video poker, keno, bingo, and video line games, authorized in Title 23, chapter 5, part 6, MCA, with or without altered play whether awarded free or for consideration, are not classified as bonus games. When subsequent games are awarded as a result of playing an authorized video poker, keno, bingo, or video line game, awards in the corresponding trigger game cannot be affected by the play of those subsequent games. (History: 23-5-115, 23-5-602, 23-5-621, MCA; IMP, 23-5-112, 23-5-602, 23-5-603, 23-5-608, 23-5-611, 23-5-621, MCA; NEW, 2005 MAR p. 1281, Eff. 7/15/05; AMD, 2011 MAR p. 1681, Eff. 1/1/12.)

23.16.1911 INFORMATION TO BE PROVIDED TO THE DEPARTMENT

(1) A licensed manufacturer or accounting system vendor may be required to provide information to the department necessary to ensure a machine or automated accounting and reporting system is in compliance with the act and these rules. The information shall include, but not be limited to:

(a) all technical manuals;

(b) all schematics, printed wire assembly and hardware block diagrams;

(c) all microprocessor manuals;

(d) all source listings, including programmer's comments, and flow charts for the game program(s) and printer routine(s);

(e) hexadecimal dump(s) for each compiled program;

(f) conventional ROM storage devices containing compiled game programs and character sets, including those that may reside on the peripheral devices;

(g) access to a compiler for the programming language used if the department is unable to compile the program with the equipment it has available;

(h) a written description of the random number generator algorithm;

(i)) schedule of proposed payout(s), percentage(s) and odds determinations;

(j) a complete copy of the programmer's memory map;

(k) programmer's memory map defining unused program and data storage space reserved for automated accounting and reporting system communication protocol and related data storage;

(l) a description of the methods of all testing criteria if performed and the results of the tests for the following:

(i) random number generator;

(ii) electromechanical interference;
(iii) radio frequency interference;
(iv) standards;
(v) A.C. line noise;
(vi) static electricity;
(vii) extreme temperature conditions;
(m) truth tables for all PALs used;
(n) an operators manual for each peripheral device utilized; and
(o) additional information to be provided for automated accounting and reporting systems:
(i) electronic copy of an output data file produced by the system for communication to the department. File shall contain no less than one hundred records for each of the following classes:
(A) video gambling machine startup;
(B) video gambling machine electronic meter period;
(C) video gambling machine event (if applicable);
(D) video gambling machine before service (if applicable);
(E) video gambling machine after service (if applicable); and
(F) video gambling machine end. (History: 23-5-115, 23-5-621, MCA; IMP, 23-5-607, 23-5-621, 23-5-631, 23-5-637, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2000 MAR p. 1638, Eff. 6/30/00; AMD, 2005 MAR p. 1281, Eff. 7/15/05; AMD, 2006 MAR p. 1735, Eff. 7/7/06.)

23.16.1912 USED KENO MACHINES (REPEALED) (History: 23-5-605, MCA; IMP, 23-5-607, MCA; NEW, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; REP, 1990 MAR p. 828, Eff. 4/27/90.)

23.16.1913 USE OF TEMPORARY REPLACEMENT OR LOANER MACHINES - PERMIT REQUIRED - REPORTING (1) The use of a temporary replacement or loaner machine is authorized only where it is being used to replace a permitted machine that has been removed from service for repair.
(2) Any operator placing a temporary replacement machine in service must notify the department on a form prescribed by the department. An application to place a temporary replacement machine in service is incorporated by reference as Form 7 and is available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site www.doj.mt.gov/gaming.
(3) The temporary replacement machine must have an identification number issued by the department. The identification number must be issued in advance of the machine being placed into service, and must be issued to a holder of an operator license. The identification number must be affixed to the machine.
(4) The operator is responsible for filing all quarterly tax reports for the temporary replacement machine.
(5) In no case may the number of machines authorized by the number of permits issued the operator be exceeded by the use of temporary replacement machines. A temporary replacement machine may not be used for more than 90 days in a single location.

(6) A machine replaced by a temporary replacement machine must be removed from public access. (History: 23-5-115, 23-5-621, MCA; IMP, 23-5-115, 23-5-603, 23-5-611, 23-5-612, MCA; EMERG, NEW, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.1914 DISTRIBUTOR'S LICENSE (1) Before conducting business in the state, a distributor shall obtain a license from the department. An applicant for a license shall submit to the department:

(a) a distributor's license application, Forms 17 and FD-258 are available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site www.doj.mt.gov/gaming;

(b) Form 10 for all applicants as described in ARM 23.16.102;

(c) a complete set of fingerprints, on Form FD-258 provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement;

(d) financial statements for the applicant's business as described in ARM 23.16.502; and

(e) a check or money order for $2,000 made payable to the State Treasurer, which includes payment for the:

(i) $1,000 annual license fee; and

(ii) $1,000 processing fee to cover the actual cost of processing the license.

(2) Based on the actual cost incurred by the department in determining whether the applicant qualifies for licensure, the department shall refund any overpayment of the processing fee provided for in (1)(e)(ii) or collect an amount sufficient to reimburse the department for any underpayment of actual costs. If an applicant withdraws the application after the department has begun processing the application, the department shall refund any amount not expended as of the date of withdrawal.

(3) The department may waive the application license and processing fees provided for in (1)(e) if the applicant is licensed as a manufacturer, manufacturer of illegal devices, or route operator and if the applicant is substantially the same and has no strangers to the license. (History: 23-5-112, 23-5-115, MCA; IMP, 23-5-115, 23-5-128, 23-5-176, MCA; NEW, 1993 MAR p. 3025, Eff. 11/25/93; NEW, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2002 MAR p. 902, Eff. 4/1/02; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2005 MAR p. 2333, Eff. 11/24/05; AMD, 2007 MAR p. 2010, Eff. 12/7/07; AMD, 2009 MAR p. 1260, Eff. 7/31/09; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.1915 ROUTE OPERATOR'S LICENSE (1) Before conducting business in the state, a route operator shall obtain a license from the department. An applicant for a license shall submit to the department:

(a) a route operator license application, Forms 17 and FD-258 are available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site www.doj.mt.gov/gaming;

(b) Form 10 for all applicants as described in ARM 23.16.102;

(c) a complete set of fingerprints, on Form FD-258 provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement;

(d) financial statements for the applicant's business as described in ARM 23.16.502; and

(e) a check or money order for $2,000 made payable to the State Treasurer, which includes payment for the:

(i) $1,000 annual license fee; and

(ii) $1,000 processing fee to cover the actual cost of processing the license.

(2) Based on the actual cost incurred by the department in determining whether the applicant qualifies for licensure, the department shall refund any overpayment of the processing fee provided for in (1)(e)(ii) or collect an amount sufficient to reimburse the department for any underpayment of actual costs. If an applicant withdraws the application after the department has begun processing the application, the department shall refund any amount not expended as of the date of withdrawal.

(3) The department may waive the application license and processing fee provided in (1)(e)(i) and (1)(e)(ii) if the applicant is licensed as a manufacturer, manufacturer of illegal devices, or distributor and if the applicant is substantially the same and has no strangers to the license. (History: 23-5-112, 23-5-115, MCA; IMP, 23-5-115, 23-5-129, 23-5-176, MCA; NEW, 1993 MAR p. 3025, Eff. 11/25/93; NEW, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2002 MAR p. 902, Eff. 4/1/02; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2005 MAR p. 2333, Eff. 11/24/05; AMD, 2007 MAR p. 2010, Eff. 12/7/07; AMD, 2009 MAR p. 1260, Eff. 7/31/09; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.1916 MANUFACTURER'S LICENSE (1) Before conducting business in the state, a manufacturer shall obtain a license from the department. An applicant for a license shall submit to the department:

(a) a manufacturer's license application, Forms 17 and FD-258 are available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site www.doj.mt.gov/gaming;

(b) Form 10 for all applicants as described in ARM 23.16.102;

(c) a complete set of fingerprints, on Form FD-258 provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement;

(d) financial statements for the applicant's business as described in ARM 23.16.502; and

(e) a check or money order for $2,000 made payable to the State Treasurer, which includes payment for the:

(i) $1,000 annual license fee; and

(ii) $1,000 processing fee to cover the actual cost of processing the license.

(2) Based on the actual cost incurred by the department in determining whether the applicant qualifies for licensure, the department shall refund any overpayment of the processing fee or collect an amount sufficient to reimburse the department for any underpayment of actual costs. If an applicant withdraws the application after the department has begun processing the application, the department shall refund any amount not expended as of the date of withdrawal.

(3) The department may waive the application license and processing fee if the applicant is licensed as a distributor, manufacturer of illegal devices, or route operator and if the applicant is substantially the same and has not added strangers to the license. (History: 23-5-112, 23-5-115, MCA; IMP, 23-5-115, 23-5-176, 23-5-625, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of

Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 3025, Eff. 11/25/93; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2002 MAR p. 902, Eff. 4/1/02; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2005 MAR p. 2333, Eff. 11/24/05; AMD, 2007 MAR p. 2010, Eff. 12/7/07; AMD, 2009 MAR p. 1260, Eff. 7/31/09; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.1916A ACCOUNTING SYSTEM VENDOR LICENSE (1) Before conducting business in this state, a vendor of tier I or tier II automated accounting and reporting systems must obtain a license from the department. An applicant for a license must submit to the department:

(a) application for an accounting system vendor license using Form 17, with special instructions, and Form FD-258 are available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site www.doj.mt.gov/gaming;

(b) Form 10 for all applicants as described in ARM 23.16.102;

(c) a complete set of fingerprints, on Form FD-258 provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement;

(d) financial statements for the applicant's business as described in ARM 23.16.502; and

(e) a check or money order for $1,100 made payable to the State Treasurer, which includes payment for the:

(i) $100 annual license fee; and

(ii) $1,000 processing fee to cover the actual cost of processing the license.

(2) Based on the actual cost incurred by the department in determining whether the applicant qualifies for licensure, the department will refund any overpayment of the processing fee or collect an amount sufficient to reimburse the department for any underpayment of actual costs. If an applicant withdraws the application after the department has begun processing the application, the department will refund any amount not expended as of the date of withdrawal.

(3) The department may waive the application and processing fee if the applicant is licensed as an operator, distributor, manufacturer of legal or illegal devices, or a route operator, and if the applicant is substantially the same and has not added strangers to the license. (History: 23-5-112, 23-5-115, 23-5-178, 23-5-621, MCA; IMP, 23-5-115, 23-5-178, 23-5-637, MCA; NEW, 2006 MAR p. 1735, Eff. 7/7/06; AMD, 2006 MAR p. 2131, Eff. 9/22/06; AMD, 2007 MAR p. 2010, Eff. 12/7/07; AMD, 2009 MAR p. 1260, Eff. 7/31/09; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.1917 GENERAL REQUIREMENTS OF OPERATORS, MANUFACTURERS, DISTRIBUTORS, AND ROUTE OPERATORS OF VIDEO GAMBLING MACHINES OR PRODUCERS OF ASSOCIATED EQUIPMENT (TRANSFERRED) (History: 23-5-115, 23-5-605, MCA; IMP, 23-5-115, 23-5-605, 23-5-625, 23-5-626, MCA; NEW, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; TRANS & AMD, to ARM 23.16.1828, 1997 MAR p. 404, Eff. 2/25/97.)

23.16.1918 TESTING FEES (1) Each person submitting a video gambling

machine, an automated accounting and reporting system, or a modification to an approved video gambling machine or an automated accounting and reporting system for testing and department approval must:

(a) be licensed as a manufacturer and/or accounting system vendor within the state of Montana;

(b) at the time of submission deposit with the department a sum of money to begin testing. This sum is to be as follows:

(i) video gambling machines, $10,000;

(ii) automated accounting and reporting system, $15,000;

(iii) modification to an approved video gambling machine or automated accounting and reporting system, $1,000.

(2) This account will be charged at the rate of $105 per hour.

(3) The division will provide an accounting to the submitting person for charges assessed to them and will refund any overpayment at the time department final approval is given. The department will notify the submitting person of any underpayment and collect that money prior to giving any department approval. (History: 23-5-115, 23-5-621, MCA; IMP, 23-5-631, 23-5-637, MCA; EMERG, NEW, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2002 MAR p. 902, Eff. 4/1/02; AMD, 2005 MAR p. 2248, Eff. 11/11/05; AMD, 2006 MAR p. 1735, Eff. 7/7/06; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

Rule 23.16.1919 reserved

23.16.1920 AUTOMATED ACCOUNTING AND REPORTING SYSTEM, VIDEO GAMBLING MACHINE, HARDWARE AND SOFTWARE SPECIFICATIONS

(1) The logical interface communications protocol used shall be the full implementation of the Gaming Standards Association's (GSA) Slot Accounting System (SAS) protocol version 6.00 or later.

(a) The GSA SAS protocol specification documents may be obtained from GSA Main Office, 48377 Fremont Blvd., Suite 117, Fremont, CA 94538; phone: (510) 492-4060; e-mail: sec@gamingstandards.com; or its web site (www.gamingstandards.com).

(b) The required minimum implementation of the GSA SAS protocol is defined in the Montana SAS Serial Protocol Implementation Guide. The guide is available on the Montana Department of Justice, Gambling Control Division web site (www.doj.mt.gov/gaming) and is available by request from the Gambling Control Division, Technical Services Section, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424; (406) 444-1971.

(2) The physical interface specification is the Electronic Industries Association (EIA) standard EIA-232-F serial communication interface. Note: This standard is also known as RS-232 and TIA (Telecommunication Industry Association).

(a) The physical interface at the video gambling machine shall be a female D-type 9-pin connector. The cable must be of sufficient length to easily reach the system interface board mounting regardless of the orientation of the interface board.

(b) The video gambling machine shall be configured as data terminal equipment with EIA-232 connector pin out in accordance with the standard as follows:

PIN	SIGNAL	Description

1	DCD	Data Carrier Detect (not used)
2	RX	Received Data
3	TX	Transmit Data
4	DTR	Data Terminal Ready (optional)
5	GND	Signal Ready
6	DSR	Data Set Ready (not used)
7	RTS	Request To Send (not used)
8	CTS	Clear To Send (not used)
9	RI	Ring Indicator (not used)

(History: 23-5-115, 23-5-621, MCA; IMP, 23-5-603, 23-5-621, 23-5-631, 23-5-637, MCA; NEW, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2011 MAR p. 1681, Eff. 1/1/12.)

Rules 23.16.1921 through 23.16.1923 reserved

23.16.1924 PROHIBITED MACHINES (1) 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.

(2) Except as provided in ARM 23.16.2001, a person who owns or operates a machine described in (1) is in violation of the act, these rules and Title 23, chapter 5, MCA. The civil and criminal penalties provided in those titles shall apply. (History: 23-5-115, 23-5-602, 23-5-605, MCA; IMP, 23-5-152, 23-5-602, 23-5-603, 23-5-605, 23-5-606, 23-5-607, 23-5-608, 23-5-609, 23-5-611, 23-5-613, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2011 MAR p. 1681, Eff. 1/1/12.)

23.16.1925 POSSESSION OF UNPERMITTED MACHINES BY MANUFACTURER, DISTRIBUTOR, ROUTE OPERATOR, OPERATOR, OR REPAIR SERVICE (1) A manufacturer, distributor, route operator, operator, or repair service may possess or own unpermitted machines or associated equipment which conform to the statutory requirements and rules relating to electronic video gambling machines. Such machines may not be made available for play by the public without a current permit issued by the department. (History: 23-5-115, 23-5-605, MCA; IMP, 23-5-603, 23-5-605, 23-5-616, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 1172, Eff. 4/27/90; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1998 MAR p. 1176, Eff. 5/1/98.)

23.16.1926 LOCATION OF MACHINES ON PREMISES (1) An electronic video gambling machine must be placed in such a manner that:

(a) each machine must be placed in such a manner that a minor who tries to play a machine is immediately observed by the licensee or the licensee's employees; and

(b) public access is, to the greatest extent possible, limited to persons over the age of 18. (History: 23-5-115, 23-5-605, MCA; IMP, 23-5-158, 23-5-603, 23-5-605, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p.

1172, Eff. 4/27/90.)

23.16.1927 APPROVAL OF VIDEO GAMBLING MACHINES AND/OR MODIFICATIONS TO APPROVED VIDEO GAMBLING MACHINES BY DEPARTMENT (1) The department may conditionally approve specific models of machines or modifications based on its finding that the machines conform to the act and these rules.

(a) Final approval of each machine or modification is required even if a machine has been conditionally approved.

(b) Conditional or final approval may be withdrawn by the department subsequent to finding that a machine does not conform to specifications or requirements that were in effect at the time conditional or final approval was granted.

(2) Approval includes inspection of the hardware and software and all information provided to the department under the Administrative Rules of Montana to determine whether a machine or modification meets all requirements of the act and these rules.

(3) The department may accept shipment of a machine or modification for the purpose of providing conditional approval of that particular make and model or modification provided the following conditions are met:

(a) the department will not be responsible for any purchase, shipping, or handling charges;

(b) all the information required in ARM 23.16.1911 must accompany the machine or modification; and

(c) prior to shipment, the department approved such shipment of a machine or modification for scheduled testing and approval.

(4) New rules may be adopted which redefine or set forth new specifications that previously approved machines and/or modifications do not comply with. In such cases, and only in such cases, the department shall allow up to 90 days for a licensee to bring a machine and/or modification into compliance with a new or modified specification. (History: 23-5-115, 23-5-602, 23-5-605, 23-5-621, MCA; IMP, 23-5-605, 23-5-606, 23-5-611, 23-5-621, 23-5-631, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 2011 MAR p. 1681, Eff. 1/1/12.)

23.16.1928 DISSEMINATION OF INFORMATION (1) Certain information collected by the department is known to contain confidential information. Information designated as confidential includes but is not limited to the following:

(a) technical manuals, instructions, wiring, or logic diagrams for the machine;

(b) listings of source codes and flow charts;

(c) results of simulations and related information explaining simulation methodology;

(d) model PROMs or logic boards containing compiled programs.

(2) Information relating to the results of actual operations as shown on a machine's meters is not confidential and may be used to compile studies or reports.

(3) Persons with access to confidential information as described in (1) may not use or reveal anything of a confidential nature outside the scope of its intended purpose.

(4) The department shall secure confidential information and restrict all persons from access, except designated employees whose duties include testing

and interpretation of the information. Such information is not public record and may not be released to any member of the public. (History: 23-5-115, 23-5-605, MCA; IMP, 23-5-115, 23-5-605, 23-5-606, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90.)

23.16.1929 REPAIRING MACHINES - APPROVAL (1) When the department approves the software and logic board of a machine, it may use a prescribed security seal process to guard against any unauthorized tampering or changes to the method by which the game is played on the machine.

(2) Any repair or replacement of a machine's logic board which may cause a loss of memory, change in program name or revision, or change in the meter reading must be reported to the Gambling Control Division of the Department of Justice on forms prescribed by the department at the time of the repair. The report requires the disclosure of the following information:

(a) final electronic and mechanical meter readings before repair;

(b) initial electronic and mechanical meter readings after repair; and

(c) the nature of the problem encountered which necessitated the repair.

(3) Any repair made to a machine's logic board which requires the breaking of a department seal must be reported to the department before the seal is removed or broken. After repair, the logic board must be reapproved by the Gambling Control Division before being reused in a machine.

(4) Any repair or replacement made to a machine's meters must be reported to the Gambling Control Division before a seal is removed or broken and the readings of the machine's electronic and mechanical meters must be provided to the Gambling Control Division. After repair, the initial readings of the electronic and mechanical meters must be provided before the machine is again placed in operation. The department must subsequently be given access to the machine to reseal the meters and verify their proper operation.

(5) To ensure the integrity, security, and monitoring of machines in service, a permitted machine may not be substituted or replaced until the replacement machine has been issued a permit by the department. (History: 23-5-115, 23-5-621, MCA; IMP, 23-5-603, 23-5-616, 23-5-621, 23-5-631, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 2013 MAR p. 1606, Eff. 9/6/13; AMD, 2014 MAR p. 1505, Eff. 7/11/14.)

23.16.1930 DEPARTMENT INVESTIGATORS - PEACE OFFICER STATUS (REPEALED) (History: 23-5-605, MCA; IMP, 23-5-605(4), MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; REP, 1990 MAR p. 828, Eff. 4/27/90.)

23.16.1931 INSPECTION AND SEIZURE OF MACHINES (1) The department has the right at all times to make an examination of any machine being used to play or simulate video poker, keno, bingo, or video line games. Such right of inspection includes immediate access to all machines and unlimited inspection of all machine parts. The department may immediately seize and remove any machine or device which violates state law or these rules.

(2) Given reasonable cause, the department may remove a machine or parts

from a machine for laboratory testing and analysis.

(3) The department may seal any machine left on the licensee's premises pending the department's investigation. The breaking or removal of the department's seal will subject the licensee to seizure of the entire machine and suspension or revocation of any permit or license issued by the department. (History: 23-5-115, 23-5-602, 23-5-621, MCA; IMP, 23-5-113, 23-5-602, 23-5-603, 23-5-608, 23-5-611, 23-5-613, 23-5-621, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; AMD, 1990 MAR p. 828, Eff. 4/27/90; AMD, 2005 MAR p. 1281, Eff. 7/15/05; AMD, 2011 MAR p. 1681, Eff. 1/1/12.)

23.16.1932 INVESTIGATION OF LICENSEE (1) The department may, upon its own motion, and shall upon receipt of a written, verified complaint of any person, investigate the actions of any licensee and the operations of any machine. The investigation shall be undertaken for the purpose of gathering evidence and determining whether a violation of the act or these rules has occurred. (History: 23-5-115, 23-5-605, MCA; IMP, 23-5-113, 23-5-613, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89.)

Rules 23.16.1933 and 23.16.1934 reserved

23.16.1935 ADMINISTRATIVE PROCEEDINGS AND JUDICIAL REVIEW (REPEALED) (History: 23-5-605, MCA; IMP, 23-5-611, 23-5-613, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; REP, 1990 MAR p. 828, Eff. 4/27/90.)

23.16.1936 TRANSPORTATION OF MACHINES INTO STATE (1) All shipments of video gaming machines into this state must comply with the act of the Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January 2, 1951, being Ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. 1171-1177. (History: 23-5-115, 23-5-605, MCA; IMP, 23-5-605, 23-5-621, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89.)

23.16.1937 REGISTRATION OF MANUFACTURERS, SUPPLIERS, OR DISTRIBUTORS OF VIDEO GAMING MACHINES (REPEALED) (History: 23-5-605, MCA; IMP, 23-5-605, 23-5-609, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; AMD, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89; REP, 1990 MAR p. 828, Eff. 4/27/90.)

Rules 23.16.1938 and 23.16.1939 reserved

23.16.1940 VIDEO GAMBLING MACHINES - TRADE SHOWS

(1) Video gambling machines, which have not been approved for operation or sale, may be brought into Montana for the purposes of trade shows, exhibitions, and similar activities, under the following requirements:

(a) The machines must simulate only games authorized in Title 23, chapter 5, MCA.

(b) The department must receive written notification of the activity and intent to display these devices at least three working days prior to the event. Such notification shall include the following information:

(i) a list describing the machines or associated equipment including model and serial number;

(ii) the event, its location, and number of days the device(s) will be displayed;

(iii) he method of transportation and location of storage of the machines;

(iv) he name of the company represented, and the name, address, and telephone number of the individual who will be responsible for the machine while in the state;

(v) the dates the machines will enter and leave the state; and

(vi) he sources and destinations of the machines.

(2) The department may inspect these devices to insure conformity with the requirements of this section.

(3) No machines brought into Montana under this rule may remain in the state for more than 20 working days. (History: 23-5-621, MCA; IMP, 23-5-621, MCA; NEW, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94.)

Rules 23.16.1941 through 23.16.1944 reserved

23.16.1945 CIVIL VIOLATIONS - CRIMINAL CITATIONS (REPEALED) (History: 23-5-605, MCA; IMP, 23-5-605, 23-5-613, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; REP, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89.)

23.16.1946 PENALTIES FOR CIVIL VIOLATION ISSUED BY DEPARTMENT (REPEALED) (History: 23-5-605, MCA; IMP, 23-5-605, 23-5-613, MCA; EMERG, NEW, 1985 MAR p. 1623, Eff. 11/1/85; TRANS, from Dept. of Revenue, Ch. 154, L. 1987, Eff. 3/22/87; REP, 1987 MAR p. 1972, Eff. 10/30/87; TRANS, from Dept. of Commerce, Ch. 642, L. 1989, Eff. 7/1/89.)

Subchapter 20

Manufacturers of Gambling Devices Not Legal in Montana

23.16.2001 MANUFACTURER OF ILLEGAL GAMBLING DEVICES - LICENSE - FEE - REPORTING REQUIREMENTS - INSPECTION OF RECORDS - REPORTS (1) Before conducting business in the state, a manufacturer of illegal gambling devices shall obtain a license from the department. An applicant for a license shall submit to the department:

(a) a manufacturer license application, Form 17 is available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site www.doj.mt.gov/gaming;

(b) Form 10 and FD-258 for all applicants as described in ARM 23.16.102;

(c) a complete set of fingerprints, on Form FD-258 provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement;

(d) financial statements for the applicant's business as described in ARM 23.16.502; and

(e) a check or money order for $2,000 made payable to the State Treasurer, which includes payment for the:

(i) $1,000 annual license fee; and

(ii) $1,000 processing fee to cover the actual cost of processing the license.

(2) Based on the actual cost incurred by the department in determining whether the applicant qualifies for licensure, the department shall refund any overpayment of the processing fee or collect an amount sufficient to reimburse the department for any underpayment of actual costs. If an applicant withdraws the application after the department has begun processing the application, the department shall refund any amount not expended as of the date of withdrawal.

(3) The department may waive the application license and processing fee if the applicant is licensed as a distributor, route operator, or manufacturer and if the applicant is substantially the same and has not added strangers to the license.

(4) A person licensed under this rule may import or export illegal gambling devices and associated equipment or either of them only if the sale and transportation of the devices or equipment complies with all applicable local, tribal, state, and federal laws and regulations. The department must approve all proposed imports and exports of illegal gambling devices and associated equipment prior to shipment.

(5) A person licensed under this rule may apply for prior approval to import or export illegal gambling devices and associated equipment or either of them, by submitting to the department:

(a) copies of the applicable gambling licenses held by that person from the jurisdiction(s) to which the person intends to export or from which the person intends to import illegal gambling devices and associated equipment or either of them and, when applicable, approved tribal compacts and relevant ordinances or documents; or

(b) a completed Form 22 including:

(i)) the identity of the seller, purchaser, shipper, receiver, method of shipment, proposed date of shipment and estimated date of delivery;

(ii) the terms of the sale, including all contracts, invoices or other documents related to the sale;

(iii) written approval from the jurisdiction in which the devices or associated equipment will be exported or imported; and

(iv) he manufacturer, model number, serial number, type and number of:

(A) devices or associated equipment that will be exported;

(B) illegal devices and associated equipment that contain components that will be imported and used by the licensee to manufacture an illegal device for export from the state;

(C) illegal devices and/or associated equipment that will be imported and tested, reconditioned, refurbished, repaired, or otherwise substantially modified in preparation for export from the state;

(D) illegal devices that will be imported and modified into gambling machines specifically authorized by Montana law or rule; or

(E) illegal devices that will be imported and used for research and development purposes.

(6) If the department has taken no action within five working days of receipt of Form 22, the application for approval is deemed granted.

(7)) A person importing or exporting illegal gambling devices and associated equipment or either of them under (5)(a) must provide monthly report(s) to the

department using Form 22 and must supply information described in (5)(b)(i), (ii) (in the case of imports only), and (iv). All monthly reports under this rule must be filed with the department within 15 days after the end of each required monthly reporting period.

(8) A person who proposes to import an illegal gambling device to be modified into a gambling machine which is specifically authorized by Montana law or rule must be licensed as a manufacturer and hold the department's approval under ARM 23.16.1901(1)(a) for the machine model to which it is to be modified.

(9) Form 22 is available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's web site www.doj.mt.gov/gaming. (History: 23-5-112, 23-5-115, 23-5-152, 23-5-621, MCA; IMP, 23-5-115, 23-5-152, 23-5-611, 23-5-614, 23-5-621, 23-5-625, 23-5-631, MCA; NEW, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 1998 MAR p. 1176, Eff. 5/1/98; AMD, 2002 MAR p. 902, Eff. 4/1/02; AMD, 2002 MAR p. 2441, Eff. 9/13/02; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2005 MAR p. 1281, Eff. 7/15/05; AMD, 2005 MAR p. 2333, Eff. 11/24/05; AMD, 2007 MAR p. 2010, Eff. 12/7/07; AMD, 2009 MAR p. 1260, Eff. 7/31/09; AMD, 2011 MAR p. 1681, Eff. 1/1/12; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

Rules 23.16.2002 and 23.16.2003 reserved

23.16.2004 IMPORTATION OF ILLEGAL GAMBLING DEVICES (REPEALED) (History: 23-5-115, MCA; IMP, 23-5-115, 23-5-152, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; REP, 1998 MAR p. 1176, Eff. 5/1/98.)

Subchapter 21

Automated Accounting and Reporting System Implementation

23.16.2101 COMBINATION OF VIDEO POKER, KENO, BINGO, AND VIDEO LINE GAMES (1) The department shall allow a video gambling machine to offer a multigame subject to the following:

(a) the owner has received approval of an application to connect to the automated accounting and reporting system provided in 23-5-637, MCA; or

(b) the owner has entered into an agreement with the department for connection to the automated accounting and reporting system when the system becomes available. The agreement to connect to the automated accounting and reporting system shall be in the form of the agreement labeled Department of Justice, Gambling Control Division Form 31.

(2) Video gambling machines identified on Department of Justice, Gambling Control Division Form 31(a) shall be committed to connecting to the automated accounting and reporting system unless multigame is removed from the video gambling machine.

(3) The department shall provide notice to the video gambling machine owner and the video gambling machine lessee not less than 90 days before the date that the video gambling machine owner is required to submit an application to be connected to the automated accounting and reporting system. The notice shall include a general description of the installation and an estimated cost for connection to the automated accounting and reporting system. Cost estimates for components of the system to be provided by manufacturers will only be included in the notice if

available from manufacturers on a timely basis. A video gambling machine shall be committed unless the owner has submitted a Gambling Control Division Form 31(c), (Notice of Movement or Removal of Multigame) with the form required by ARM 23.16.1929 (service report) to the Gambling Control Division at least 60 days prior to the date for which the owner has been provided notice that the video gambling machine is to be connected to the automated accounting and reporting system.

(4) If the licensed operator of the video gambling machine on which multigame is available is not the video gambling machine owner, each agreement (Form 31) shall be accompanied by a form (Form 31(b)) that acknowledges that the licensed operator has reviewed, understands and agrees to the terms of the agreement (Form 31).

(5) The combination of games may not be offered for play prior to October 1, 2003. (History: 23-5-115, 23-5-602, 23-5-612, 23-5-621, MCA; IMP, 23-5-621, 23-5-637, MCA; NEW, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2006 MAR p. 2131, Eff. 9/22/06; AMD, 2011 MAR p. 1681, Eff. 1/1/12.)

23.16.2102 APPROVED ACCOUNTING AND REPORTING SYSTEM AVAILABILITY IN RELATION TO MULTIGAME AGREEMENTS (1) For purposes of determining when an approved automated accounting system is available under the terms of multigame video gambling machine agreements, the availability date shall be January 1, 2008, which is a date not sooner than 180 days after the department approved at least two commercially available systems under ARM 23.16.2105 for tier II systems, and when tax reporting was available through the department's internet web site. (History: 23-5-621, MCA; IMP, 23-5-637, MCA; NEW, 2006 MAR p. 2131, Eff. 9/22/06; AMD, 2007 MAR p. 1544, Eff. 10/5/07.)

23.16.2103 PROCEDURE FOR PROVIDING NOTICE TO MULTIGAME MACHINE OWNERS AND LESSEES TO CONNECT TO AN APPROVED ACCOUNTING AND REPORTING SYSTEM (1) The department shall provide notification for connection to an approved system, as required by ARM 23.16.2101(3) and (4), according to the multi-county districts established by Executive Order 2-71 and Executive Order 7-73. The department shall give priority to those multi-county districts, or combination of districts where, as of March 1, 2008, the greatest number of video gambling machines committed by agreement to connect to an approved reporting system, but not yet connected, are located.

(2) The notification and begin-reporting schedule shall be as follows:

District(s)	Notice Date	Begin-Reporting Date
7	May 1, 2008	October 1, 2008
11	August 1, 2008	January 1, 2009
10	November 1, 2008	April 1, 2009
8, 12	February 1, 2009	July 1, 2009
5, 4	May 1, 2009	October 1, 2009
1, 2, 3	August 1, 2009	January 1, 2010
6, 9	November 1, 2009	April 1, 2010

(a) District 7 includes: Big Horn, Carbon, Stillwater, Sweet Grass, and Yellowstone counties. District 11 includes: Mineral, Missoula, and Ravalli counties. District 10 includes: Flathead, Lake, Lincoln, and Sanders counties. District 8 includes: Broadwater, Jefferson, and Lewis and Clark counties. District 12 includes: Beaverhead, Deer Lodge, Granite, Madison, Powell, and Silver Bow counties. District 5 includes: Cascade, Chouteau, Glacier, Pondera, Teton, and Toole

counties. District 4 includes: Blaine, Hill, and Liberty counties. District 1 includes: Daniels, Phillips, Roosevelt, Sheridan, and Valley counties. District 2 includes: Dawson, Garfield, McCone, Prairie, Richland, and Wibaux counties. District 3 includes: Carter, Custer, Fallon, Powder River, Rosebud, and Treasure counties. District 6 includes: Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, and Wheatland counties. District 9 includes: Gallatin, Meagher, and Park counties.

(3) A machine owner who has received a notice to connect may request, in writing, one 90-day postponement of the begin-reporting date upon a demonstration, in writing, of hardship.

(4) A machine owner or lessee who chooses to not connect to an approved reporting system, as provided by these rules, must remove the multigame software from the video gambling machines, and provide written notice to the department as required by ARM 23.16.1822, at least 30 days prior to the applicable begin-reporting date established in (2). (History: 23-5-115, 23-5-621, MCA; IMP, 23-5-637, MCA; NEW, 2008 MAR p. 806, Eff. 4/25/08.)

Rule 23.16.2104 reserved

23.16.2105 GENERAL SPECIFICATIONS OF APPROVED AUTOMATED ACCOUNTING AND REPORTING SYSTEMS (1) Each automated accounting and reporting system must be inspected for approval by the department. The department may inspect any approved automated accounting and reporting system sold or operated in the state. Any approval granted by the department to a person is not transferable. Upon request, the department must be allowed immediate access to an approved accounting and reporting system.

(2) Tier I and tier II automated accounting and reporting systems are allowed as follows:

(a) tier I automated accounting and reporting systems electronically communicate information from individual video gambling machines, using the logical interface communications protocol provided in ARM 23.16.1920, and forward the information to a state-sponsored internet provider via internet connection. Tier I automated accounting and reporting systems operate in the following manner:

(i) an approved tier I system shall communicate the following information to the department:

(A) video gambling machine ID;

(B) filing quarter for meter reading to apply;

(C) notification if the last reading for the quarter;

(D) operator number (location);

(E) route operator license number (if applicable);

(F) notification if meter reading is the first reading for a new video gambling machine;

(G) SAS event code for tier I reporting;

(H) date meter recording was taken;

(I) time meter reading was taken;

(J) soft meter total cents in, total cents played, total cents won, total cents paid;

(K) accounting system software version; and

(L) Program ID;

(ii) monitors video gambling machine performance and records events as defined in ARM 23.16.1920(1)(b);

(iii) video gambling machine system interface boards must utilize power sources independent of that supplied by the video gambling machine so as to not interfere with video gambling machine operation;

(iv) ystem interface boards shall be securely mounted in each video gambling machine that communicates to an accounting and reporting system; and

(v) the following events must be recorded and reported:

(A) slot door opened;

(B) slot door closed;

(C) drop door opened;

(D) drop door closed;

(E) card cage opened;

(F) card cage closed;

(G) AC power applied to the VGM;

(H)) AC power was lost from the VGM;

(I) cashbox door opened;

(J) cashbox door was closed;

(K) cashbox removed;

(L) cashbox installed;

(M) belly door opened;

(N) belly door closed;

(O) operator changed configuration options; and

(P) soft meter reset to zero.

(b) Tier II automated accounting and reporting systems that electronically communicate video gambling machine information to a state-sponsored internet site. Tier II automated accounting and reporting systems operate in the following manner:

(i) at a minimum an approved tier II system shall communicate the following information to the department:

(A) vgm ID;

(B) filing quarter for meter reading to apply;

(C) notification if the last reading for the quarter;

(D) operator number (location);

(E) route operator license number (if applicable);

(F) notification if meter reading is the first reading for a new vgm;

(G) notification if service report is included;

(H) date meter recording was taken;

(I) time meter reading was taken;

(J) service report codes for problem, labor, and parts before and after service (when applicable);

(K) before and after meter reading indication for service if applicable;

(L) hard meter bill in (if applicable);

(M) hard meter coin in, total played, total won, total paid;

(N) soft meter total in, total played, total won, total paid;

(O) number of games played if available;

(P) number of games won if available;

(Q) accounting system software version; and

(R)) Program ID if changed since last transmission.

(3) The department may provide file layout specifications for all tier I and tier II information reporting.

(4) Data packet transmission reporting periods are programmable by weekday and time in hours and minutes in a 24-hour format.

(5) Data packet transmission supports real time requests and automatic recurrence by week, day, and time.

(6) Automated accounting and reporting systems must be operated in the manner specified by this rule. (History: 23-5-115, 23-5-621, MCA; IMP, 23-5-631, 23-5-637, MCA; NEW, 2006 MAR p. 1735, Eff. 7/7/06; AMD, 2007 MAR p. 1544, Eff. 10/5/07.)

Rule 23.16.2106 reserved

23.16.2107 APPLICATION FOR A VIDEO GAMBLING MACHINE OWNER OR OPERATOR TO UTILIZE AN APPROVED AUTOMATED ACCOUNTING AND REPORTING SYSTEM (1) An owner or operator intending to utilize an approved automated accounting and reporting system shall, not less than 60 days prior to the first day of the quarter in which the system is to be utilized, submit to the department an application for use of the approved automated accounting and reporting system.

(2) An owner or operator intending to utilize an approved system in which the data entry and recordkeeping will be performed by the route operator as part of a written vending agreement shall, not less than 30 days prior to the first day of the quarter in which the system is to be utilized, submit to the department an application for use of the approved automated accounting and reporting system.

(3) The application shall provide the following information:

(a) a description of the approved automated accounting and reporting system, including the name of the accounting system vendor;

(b) a listing of all video gambling machines that will be connected;

(c) information required for issuance of a user ID and password for internet transactions; and

(d) e-mail addresses for authorized employees identified on the application.

(4) The department may approve, deny, or request a modification of the application.

(5) The owner or operator must demonstrate the ability to effectively operate the approved accounting and reporting system, and the department must validate the e-mail addresses for employees identified on the application.

(6) In addition to utilizing an approved accounting and reporting system, the owner or operator will be subject to and must continue to keep records and file quarterly reports manually through the end of the quarter in which they apply for system approval. (History: 23-5-115, 23-5-621, MCA; IMP, 23-5-637, MCA; NEW, 2006 MAR p. 1735, Eff. 7/7/06; AMD, 2007 MAR p. 2126, Eff. 12/21/07.)

Rule 23.16.2108 reserved

23.16.2109 TESTING OF AUTOMATED ACCOUNTING AND REPORTING SYSTEMS (1) The department may enter into an agreement with accounting system vendors, route operators, or licensed operators to provide for testing of systems under ARM 23.16.2102. Any agreement for testing shall include the following:

(a) the continued reporting and maintenance of records as provided in ARM 23.16.1826, 23.16.1826A, and 23.16.1827, during the test period;

(b) a description of information to be reported to the Gambling Control Division for purposes of validating test results; and

(c) a final date that the test will terminate.

(2) The department will field test all tier I systems as follows:

(a) review data for correct file submission format;

(b) test batch upload process for proper procedures;

(c) test for ability to correct any rejected records;

(d) test submitted e-mail addresses; and

(e) evaluate transmissions of data for a 30-60 day period.

(3) The department will field test all tier II automated accounting and reporting systems by requiring all proposed accounting systems to satisfactorily record and communicate electronic meter readings and to demonstrate the system can reliably record and communicate complex transactions.

(4) The department will provide a web site to allow on-line entry of tier II meter readings. In addition, the department will provide an electronic spreadsheet which will allow for entry of required tier II data.

(5) The department may approve an automated accounting and reporting system for purposes of field testing prior to final approval of the system. (History: 23-5-115, 23-5-621, MCA; IMP, 23-5-631, 23-5-637, MCA; NEW, 2006 MAR p. 1735, Eff. 7/7/06; AMD, 2011 MAR p. 1681, Eff. 8/26/11.)

Rule 23.16.2110 reserved

23.16.2111 MODIFICATION OF APPROVED AUTOMATED ACCOUNTING AND REPORTING SYSTEMS (1) All modifications to tier I systems must be submitted to the department for purposes of maintaining records of the approved versions of the approved system.

(2) Any proposed substantial modification of a tier I system or a series of minor modifications whose total result is substantial must meet all of the specific law or rule requirements in effect at the time of submission. The department's determination that a modification is substantial may be contested pursuant to the Montana Administrative Procedure Act.

(3) All modifications to tier II systems that modify the information or communication of the information required for tier II systems by ARM 23.16.2105(2)(b)(i) must be approved by the department. (History: 23-5-621, MCA; IMP, 23-5-631, 23-5-637, MCA; NEW, 2006 MAR p. 1735, Eff. 7/7/06.)

Rule 23.16.2112 reserved

23.16.2113 CONTINUATION OF APPROVED ACCOUNTING AND REPORTING SYSTEM WHEN ACCOUNTING SYSTEM VENDOR'S LICENSE LAPSES (1) In the event an accounting system vendor fails to renew its license, an operator may continue to operate the approved accounting and reporting system purchased from the vendor if the approved accounting and reporting system requires no modification or support from a vendor to comply with ARM 23.16.2111.

(2) In the event an accounting system vendor fails to renew its license and the conditions for continuation cannot be met, operators using the system shall have 120 days to convert to a new system. (History: 23-5-621, MCA; IMP, 23-5-637, MCA; NEW, 2006 MAR p. 1735, Eff. 7/7/06.)

Rule 23.16.2114 reserved

23.16.2115 AUTOMATED ACCOUNTING AND REPORTING SYSTEM DATA NOT TO BE USED FOR PLAYER TRACKING (1) Data acquired by an automated accounting and reporting system may not be communicated or transferred to any player tracking system using any electronic communications, media, or storage device.

(2) An automated accounting and reporting system may not record or communicate the identity of individual players, club membership, or characteristics

of individual players. (History: 23-5-621, MCA; IMP, 23-5-621, MCA; NEW, 2006 MAR p. 1735, Eff. 7/7/06.)

Subchapter 22 reserved

Subchapter 23

Electronic Live Bingo and Keno Equipment

23.16.2301 DEFINITIONS For the purposes of ARM 23.16.2302 through 23.16.2306, the following definitions apply:

(1) "Electronic live bingo or keno equipment" means an electronic device or system that uses a microprocessor to generate random numbers during a live bingo or keno game.

(2) "Manufacturer" means a manufacturer of electronic live bingo or keno equipment as defined in ARM 23.16.101. (History: 23-5-115, MCA; IMP, 23-5-424, 23-5-425, 23-5-426, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91.)

23.16.2302 MANUFACTURER LICENSE (1) Before conducting business in this state, a manufacturer shall obtain an electronic live bingo or keno manufacturer license from the department. An applicant for a license shall submit to the department:

(a) an electronic live bingo or keno manufacturer license application (Form 17);

(b) Form 10 for all applicants as described in ARM 23.16.102;

(c) financial statements for the applicant's business as described in ARM 23.16.502; and

(d) a check or money order for $2,000 made payable to the State Treasurer, which includes payment for the:

(i) $1,000 annual license fee; and

(ii) $1,000 processing fee to cover the actual cost of processing the license.

(2) Based on the actual cost incurred by the department in determining whether the applicant qualifies for licensure, the department shall refund any overpayment of the processing fee provided for in (1)(d)(ii) or collect an amount sufficient to reimburse the department for any underpayment of actual costs. If an applicant withdraws the application after the department has begun processing the application, the department shall refund any amount not expended as of the date of withdrawal. (History: 23-5-115, MCA; IMP, 23-5-115, 23-5-424, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 2007 MAR p. 2010, Eff. 12/7/07.)

23.16.2303 EQUIPMENT EXAMINATION FEE (1) A manufacturer shall submit to the department a prototype of his electronic live bingo or keno equipment as provided in 23-5-425, MCA. At the time the equipment is submitted for examination, the manufacturer shall pay a fee of $2,000.

(2) Based on the actual cost incurred by the department in examining the equipment, the department shall refund any overpayment of the fee or collect an amount sufficient to reimburse the department for any underpayment of actual costs. (History: 23-5-115, MCA; IMP, 23-5-425, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91.)

23.16.2304 MODIFICATIONS TO APPROVED EQUIPMENT (1) A

modification to approved electronic live bingo or keno equipment that alters the operation of the equipment must be submitted to the department for examination and approval before installation.

(2) At the time the modification is submitted to the department, the manufacturer shall pay a fee of $200 to cover the actual cost of examining the modification. An overpayment or underpayment of the fee will be processed as provided for in ARM 23.16.2303(2).

(3) Any previously approved equipment subject to a modification must meet the specifications in effect at the time the modification is submitted to the department. (History: 23-5-115, MCA; IMP, 23-5-425, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91.)

23.16.2305 EQUIPMENT SPECIFICATIONS (1) Electronic live bingo or keno equipment may offer only those games authorized as live bingo or keno under Title 23, chapter 5, part 4, MCA.

(2) The equipment must:

(a) allow easy access to the equipment's conventional ROM devices;

(b) have an identification tag permanently affixed in a location approved by the department that lists the manufacturer, serial number, model, and date of manufacture;

(c) have no switches, jumpers, wire posts, or other means of manipulation that could affect the operation or outcome of a game;

(d) generate game numbers before each game by using a random number generator. After the game numbers are generated and before start of the game, the numbers must be frozen in the order they were generated, and all numbers used for play must be taken in order from the top of the frozen field; and

(e) meet the same specifications imposed on video gambling machines under:

(i) ARM 23.16.1901(1)(d)(xiv);

(ii) ARM 23.16.1901(1)(d)(xv);

(iii) 23.16.1905; and

(iv) ARM 23.16.1906(1)(a), (d), and (e).

(3) In addition to the requirements provided for in (1) and (2), electronic live bingo equipment must:

(a) use a field of numbers from 1 through 75;

(b) display the numbers picked;

(c) operate in conformance with the standard rules of bingo; and

(d) designate the winning arrangement of numbers before each game begins.

(4) In addition to the requirements provided for in (1) and (2), electronic live keno equipment must:

(a) use a field of numbers from 1 through 80;

(b) display the numbers picked; and

(c) operate in conformance with the standard rules of keno.

(5) The department shall determine what optional features may be allowed. These features must be approved by the department before installation.

(6) At the department's request, the licensed manufacturer shall submit any information required under ARM 23.16.1911 that the department determines is necessary to ensure that the equipment is in compliance with this rule. (History: 23-5-115, 23-5-426, MCA; IMP, 23-5-115, 23-5-426, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 2005 MAR p. 1281, Eff. 7/15/05.)

23.16.2306 REPORTING AND RECORD KEEPING REQUIREMENTS

(1) Within 15 days following the end of each calendar quarter, a licensed manufacturer shall submit to the department a quarterly activity report (form 18), which is available upon request from the department.

(2) The report must list the following information for all electronic live bingo and keno equipment shipped into or within the state by the manufacturer:

(a) model number;

(b) serial number;

(c) destination; and

(d) any other information required by the department.

(3) A licensed manufacturer shall retain for a minimum of 12 full quarters from the previous quarterly tax return due date all records verifying the information reported under this rule. (History: 23-5-115, MCA; IMP, 23-5-115, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1997 MAR p. 404, Eff. 2/25/97.)

Subchapter 24

Live Keno and Bingo Record Keeping

23.16.2401 DEFINITIONS Throughout this subchapter, the following definitions apply:

(1) "Bank" means the common fund into which player consideration to play keno or bingo is placed and out of which prizes are awarded.

(2) "Bingo" means a game of chance played for prizes with cards bearing numbers as described in law, in which the holder covers such numbers when objects similarly numbered are drawn or electronically determined, and in which the game is won by persons covering one or more previously designated arrangements of numbers on such cards. A game of bingo begins with the first number called and ends when an individual or individuals covers the previously designated arrangements, declares bingo, and the game is verified.

(3) "Filing date" means July 31st of each year.

(4) "Game" means a single period of play during a bingo session in which a winner or winners are chosen or the game as defined in law or administrative rule ends.

(5) "Gross keno or bingo game income" means the total consideration paid by all the players to play.

(6) "Gross proceeds" means gross income received to play live keno or bingo minus the prize payouts.

(7) "Inside keno cards" mean the cards on which players record their selections which are submitted to and retained by the keno caller as a receipt and to verify player selections.

(8) "Keno or bingo caller" means any individual responsible for the collection of player consideration, verification of bets and winners and distribution of awards.

(9) "Outside keno cards" mean the cards on which players' selections are recorded by a keno caller and issued to the player as a receipt. These cards must contain the card manufacturer name and a purchase series number.

(10) "Payout(s)" means a prize or prizes awarded to winners. The term does not include prizes awarded to winners of free, promotional games.

(11) "Payout slips" means a report detailing the payouts made in each live keno or bingo game, including promotional prizes. The slips must also contain the name of the individual making the payouts, game date and the payouts or prizes, for

each game.

(12) "Player" means a natural person paying valuable consideration to play live keno or bingo.

(13) "Promotional game" means a game during which a prize is awarded but for which no consideration is required by the players.

(14) "Tax year end" means June 30th of each year. (History: 23-5-115, MCA; IMP, 23-5-112, 23-5-409, 23-5-412, MCA; NEW, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 2005 MAR p. 1281, Eff. 7/15/05; AMD, 2011 MAR p. 1681, Eff. 10/1/11.)

23.16.2402 LIVE KENO AND BINGO RECORD KEEPING (1) A record of live keno and bingo gross proceeds, must be maintained separate and distinct from other sources of operator revenue. Unless designated otherwise the operator of a live keno or bingo game must retain daily accounting records for a period of three years from the due date of the live game income tax return. The records must remain legible and be kept in the State of Montana and accessible by the department from the licensee.

(a) The following records must be maintained by operators of live keno and bingo games:

(i)) the gross income collected, supported by proper records as required in these rules.

(ii) the amounts paid out for prizes supported by proper records as required in these rules.

(iii) records documenting the starting and ending cash bank which must be verified by a signature. The amount of the starting bank must be verified by the signature of at least one person responsible for counting or managing the starting game bank. The ending bank must be verified by the signature of at least one person responsible for counting or managing the ending game bank. In no case may the same person verify both starting and ending cash bank amounts.

(iv) records providing a reconciliation of gross income, actual profit, cash long or short, and bank deposit.

(v) a copy of the schedule of games and their prizes.

(b) the form(s) on which daily live keno and bingo records are kept must, at a minimum, provide for the requirements of (1)(a). If necessary, the form(s) must also provide for the following:

(i)) if live game cash is used to pay expenses other than prize payouts, the daily reconciliation form(s) must include an entry for these expenses. In addition to the reconciliation entry, copies of the expense receipts must be attached to and kept with the associated daily records.

(ii) if adjustments are made to increase or decrease the starting bank balance for the next day or session of play, the adjustments must be accounted for on the operator's daily reconciliation form(s).

(2) In addition to the records required to be kept under part 1 of this rule, the live keno operator must maintain the following records:

(a) a record of outside keno card purchases, detailing the number of cards purchased by series number must be kept for a period not less than three years from the due date of the associated live keno income tax return. The outside keno card purchase invoices must segregate the order by single cards and card sheets;

(b) if the premise uses a cash register or other method of calculating cash on hand with which a tape record is maintained, the tape record must be kept with other daily records;

(c) if, in the game bank reconciliation process, the operator experiences a net cash overage or shortage in excess of 1% of gross game income for a one-month period, the overage or shortage must be investigated. A record detailing the findings of the investigation must be maintained with other required records;

(d) a record of the total number of keno cards sold, segregated by card price, must also be maintained on a daily basis;

(e) payout slips must be maintained by each keno caller for each work shift. It must also be initialed by the keno caller at the end of the shift. Prizes awarded for promotional games must be recorded on the payout slips. The slips must also be maintained as part of the operator's records for a period of three months;

(f) for the purposes of calculating gross proceeds promotional game prizes must be subtracted from total payouts;

(g)) the ending bank balance less the days gross proceeds and any other adjustments must be used as the beginning balance for the next day; and

(h) if a licensed premise has not kept records in the manner prescribed in these rules and no other records exist with which the department may calculate the gross keno proceeds, the department may estimate a tax using the best available method.

(3) In addition to the records required to be kept under part 1 of this rule, the live bingo operator must maintain the following records:

(a) a record of all bingo card purchases, detailing the number of cards purchased by type;

(b) if the premise uses a cash register or other method of calculating cash on hand with which a tape record is maintained the tape record must be kept with the daily records;

(c) payout slips must be maintained by bingo callers for each work shift. Prizes awarded for promotional games must be recorded on the payout slips but so designated for the purpose of calculating gross proceeds. The payout slips must be initialed by the caller at the end of his/her shift. The slips must also be maintained as part of the operator's records for a period of three months;

(d) the day's gross proceeds must be reconciled with the ending bank balance. If, in the bank reconciliation process, the operator experiences a net cash overage or shortage in excess of 1% of the gross game income for a one-month period, the overage or shortage must be investigated. A record detailing the findings of the investigation must be maintained with other required records. For the purposes of calculating gross proceeds, promotional game prizes must be subtracted from the total payouts;

(e) the ending bank balance less the days gross proceeds and any other adjustments must be used as the beginning balance for the next day; and

(f) if records are not kept in the manner prescribed in these rules the department may estimate gross proceeds using the best available method. (History: 23-5-115, MCA; IMP, 23-5-409, MCA; NEW, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2009 MAR p. 2480, Eff. 12/25/09.)

23.16.2403 EXPENSES ALLOWED IN CALCULATING NET LIVE KENO OR BINGO TAXABLE INCOME (REPEALED) (History: 23-5-115, MCA; IMP, 23-5-409, MCA; NEW, 1990 MAR p. 828, Eff. 4/27/90; REP, 1991 MAR p. 1942, Eff. 10/18/91.)

23.16.2404 PROCEDURE FOR APPROVING VARIATIONS OF STANDARD BINGO CARDS (1) A game of bingo using a variation of a standard card with 5 columns and 25 squares may not be conducted unless and until it has been

approved by the department.

(2) A person requesting approval from the department for conducting a variation of an authorized bingo card shall submit the following information to the department:

(a) an illustration or facsimile of the proposed bingo card variation submitted for approval; and

(b) a detailed description of the operation of the game of bingo utilizing the proposed bingo card variation, which must verify that the game complies with all requirements for games of bingo as set out in 23-5-412, MCA.

(3) The department may request additional information, including a demonstration of the game of bingo utilizing the bingo card variation submitted for approval.

(4) After reviewing the proposed bingo card variation, the department shall notify in writing the person submitting the variation 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. (History: 23-5-115, MCA; IMP, 23-5-412, MCA; NEW, 2009 MAR p. 1260, Eff. 7/31/09.)

Rule 23.16.2405 reserved

23.16.2406 PRIZE AWARDS FOR LIVE KENO AND BINGO GAMES (1) All live keno operators must provide a pay table listing prizes awarded on winning cards. All valid winning keno cards presented to the keno caller before the next game must be paid in full as per the pay table.

(2) All live bingo operators must provide a list of general game rules and normal prize payouts. This provision does not preclude bingo operators from conducting games not listed in their rules or adjusting payouts, as long as the games are legal under the provisions of the statutes and administrative rules and the changes are announced to the players before the game begins.

(a) All valid winning patterns on bingo cards must be paid in full as per the listed or announced prizes.

(b) In no case may:

(i)) the prizes paid out exceed $800 per winning pattern;

(ii) the total prizes paid during a regular bingo session exceed $3,000;

(iii) he total prizes paid during a special bingo session exceed $5,000;

(iv) bingo games be extended in any manner so as to exceed the prize limitations; or

(v) identical cards be played so as to exceed prize limitations. (History: 23- 5-115, MCA; IMP, 23-5-412, MCA; NEW, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 2005 MAR p. 1509, Eff. 7/15/05; AMD, 2011 MAR p. 1681, Eff. 10/1/11.)

23.16.2407 ACTUAL CASH PROFIT BANK DEPOSIT REQUIRED BY LICENSED OPERATOR (1) The actual cash profit of live keno and bingo games, less the increase or plus the decrease in the normal cash bank for the next keno or bingo day's play, must be deposited intact in the operator's bank account at least twice a month. If the operator prepares a deposit slip for the deposit of actual cash profit from only one day's activity, the validated deposit slip or receipt must contain a reference to the date, and deposit amount, and be included as part of the daily

accounting records. If the operator prepares one deposit slip for the deposit of more than one day's activity or other gambling activity, or both, the deposit slip must contain a reference to, the dates played, deposit subtotals by activity, and be included as part of the daily accounting records. (History: 23-5-115, MCA; IMP, 23-5-409, MCA; NEW, 1990 MAR p. 828, Eff. 4/27/90.)

Rules 23.16.2408 and 23.16.2409 reserved

23.16.2410 PENALTIES (1) Failure to file live keno or bingo income tax returns or pay the tax in a timely manner will result in the assessment of penalties, stated in terms of a percentage of the tax due. The penalties to be assessed are as follows:

(a) 0-30 days late = 10% of tax due;
(b) 31-60 days late = 25% of tax due;
(c) 61-90 days late = 50% of tax due;
(d) 91 days or more = 100% of tax due.

(2) The imposition of these penalties does not preclude the department from taking any other action against the operator as allowed by law. (History: 23-5-115, MCA; IMP, 23-5-115, 23-5-409, MCA; NEW, 1990 MAR p. 828, Eff. 4/27/90.)

23.16.2411 SPECIAL BINGO SESSIONS (1) A licensed operator granted an annual permit by the department to conduct live bingo games on a specified premises may apply for a permit to conduct a special bingo session.

(2) To apply for a special bingo session permit, the operator shall submit an application to the department on Form 38, which is available from the department. The application for a special bingo session must include:

(a) licensed operator's name;
(b) operator license number;
(c) location of the special bingo session;
(d) date and start time of the special bingo session;
(e) date of applicant's most recent special bingo session; and
(f) $10 processing fee.

(3) The special bingo session application must be received by the department at least ten working days before the start of the proposed special bingo session. The department may process an application received by fax but shall not issue a permit on such an application until the fee is received by the department. An application may not receive approval if received by the department less than ten working days before the date of the proposed start of the special bingo session.

(4) A special bingo session permit issued to an operator shall be counted against the allotment of annual special bingo sessions whether or not the special bingo session was held by the operator.

(5) A special bingo session must be publicly identified as being a special bingo session.

(6) An operator's special bingo session permit must be posted and clearly visible to the public. The permit is specific to an operator and location. An operator may conduct up to five special bingo sessions per year. At least 30 days must elapse between each special bingo session.

(7)) Special bingo sessions must comply with the requirements of Title 23, chapter 5, MCA, and the rules of the department. (History: 23-5-115, MCA; IMP, 23-5-112, 23-5-412, MCA; NEW, 2011 MAR p. 1681, Eff. 10/1/11.)

Subchapter 25 reserved

Subchapter 26

Raffles

23.16.2601 DEFINITION (REPEALED) (History: 23-5-115, MCA; IMP, 23-5-405, MCA; NEW, 1990 MAR p. 828, Eff. 4/27/90; REP, 1991 MAR p. 1942, Eff. 10/18/91.)

23.16.2602 RAFFLE GENERAL REQUIREMENTS, AUTHORIZED RANDOM SELECTION PROCESSES, AND RECORD KEEPING REQUIREMENTS

(1) The following random selection processes are authorized for use in determining a winner of a raffle as defined in 23-5-112, MCA:

(a) a drawing from a drum or other receptacle containing raffle ticket stubs or other suitable indicators of the ticket purchaser's identity that have been thoroughly mixed before the drawing; and

(b) selection by any other process if:

(i)) the process is reasonably assured of being random and is not connected to an event that has its own intrinsic significance (e.g., a sports event, game of chance, contest); and

(ii) the indicator of the raffle ticket purchaser's identity reasonably assures the random selection of a winner.

(2) Any raffle conducted by a nonprofit organization, college, university, public school district as provided in 20-6-101 and 20-6-701, MCA, or nonpublic school as described in 20-5-102(2)(e), MCA, must be publicly identified as a charitable raffle.

(3) For each raffle conducted, the entity conducting the raffle shall maintain for a period of 12 months from the date of the raffle drawing, and provide to the department upon request:

(a) a record of the total proceeds collected;

(b) a detailed description of the prize(s) awarded;

(c) a description of the selection process used to determine the winner(s);

(d) a record reflecting the source of the prize(s), including any money paid to purchase prizes;

(e) a record of any administrative costs paid with raffle proceeds;

(f) a description of how the raffle was publically identified as a charitable raffle, where applicable;

(g)) the name and address of the person(s) awarded raffle prize(s); and

(h) a detailed record of the distribution of the charitable raffle proceeds, where applicable.

(4) All raffle terms, including the date of the raffle drawing, must be available to the public prior to the sale of any raffle tickets. (History: 23-5-115, MCA; IMP, 23-5-112, 23-5-413, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2009 MAR p. 1260, Eff. 7/31/09.)

23.16.2603 AUTHORIZED SELECTION PROCESS FOR DAILY POT RAFFLES (1) Daily pot raffles:

(a) may be conducted for an entry fee not to exceed 50 cents each day;

(b) may not accumulate entry fees and offer prize amounts exceeding $500; and

(c) may continue for a period not to exceed 30 days.

(2) Daily pot raffles for which the prize is an accumulation of entry fees may

only be sponsored by religious or nonprofit organizations.

(3) In the case of for profit sponsors, the sponsor must own the prize prior to collecting entry fees and the prize may not be an accumulation of entry fees.

(4) Daily pot raffles may draw tickets or indicators each day for a period not to exceed 30 days or until the accumulated entry fees equal $500.

(5) If no winner has been selected after 30 days from the date of the payment of the first entry fee; or the accumulated entry fees equal $500, no further entries may be made and at that time the drawing of tickets or indicators must be continued until a winner is selected.

(6) All requirements for raffles as set out in 23-5-413, MCA, apply to the conduct of daily pot raffles. (History: 23-5-112, 23-5-115, MCA; IMP, 23-5-112, 23-5-413, MCA; NEW, 2003 MAR p. 1989, Eff. 9/12/03.)

Subchapter 27 reserved

Subchapter 28

Calcutta Pools

23.16.2801 DEFINITIONS (1) "Calcutta pool" means a form of auction pool wherein participants in the pool bid on the competitors in an underlying event with each successful bidder wagering the amount he has bid on the competitor he has "purchased;" at the conclusion of the underlying event the pool of wagers placed on all competitors is divided amongst the pool participants who have "purchased" the winners of the underlying event according to the rules of the particular Calcutta pool.

(2) "Competitor" means an entrant in the underlying event upon which a Calcutta pool is based and who is "purchased" or wagered upon by a participant in the Calcutta pool.

(3) "Participant" means a person who bids/wagers in a Calcutta pool, who "purchases" a competitor in the event underlying the pool, and who stands to win according to the rules of the pool.

(4) "Prize" means anything of value awarded a winner of a Calcutta pool or anything of value awarded a winner of an underlying event from the Calcutta pool based on that event.

(5) "Proceeds" means the amount left in a Calcutta pool after administrative costs and prizes have been paid.

(6) "Purchase" means to earn the right to wager in a Calcutta pool by submitting the highest bid on a particular competitor in the underlying event.

(7) "Underlying event" means an actual game, tournament, or contest with more than two entrants which is wagered upon by the participants in a Calcutta pool. Fictitious or contrived events shall not be considered underlying events for purposes of Calcutta pool wagering. (History: 23-5-115, MCA; IMP, 23-5-221, MCA; NEW, 1990 MAR p. 828, Eff. 4/27/90.)

23.16.2802 RESTRICTIONS ON CALCUTTA POOLS (1) Calcutta pools must meet all the requirements of 23-5-221, MCA. (History: 23-5-115, MCA; IMP, 23-5-221, MCA; NEW, 1990 MAR p. 828, Eff. 4/27/90.)

23.16.2803 APPLICATION FOR AUTHORIZATION TO CONDUCT A CALCUTTA POOL (1) Any organization seeking authorization from the department to conduct a Calcutta pool must supply the department the following information:

(a) the event underlying the Calcutta pool;

(b) the number of competitors in the underlying event (actual number or best estimate);

(c) the value of prizes to be awarded (a prize may be a percentage of the total wagers);

(d) any projected costs of administering the pool;

(e) the intended use of the proceeds of the pool;

(f) a copy of the rules of the Calcutta pool which will be publicly posted.

(2) All applications for authorization to conduct Calcutta pools should be received by the department at least ten working days before the start of the auction. The department may process an application received by FAX. An application may not receive approval if received by the department with less than ten working days before the start of the tournament. (History: 23-5-115, 23-5-621, MCA; IMP, 23-5-115, 23-5-221, 23-5-222, 23-5-621, MCA; NEW, 1990 MAR p. 828, Eff. 4/27/90; AMD, 1997 MAR p. 404, Eff. 2/25/97.)

Rules 23.16.2804 and 23.16.2805 reserved

23.16.2806 MISREPRESENTATION - PENALTIES (1) If, upon investigation, the department determines that an organization authorized to conduct a Calcutta pool has failed to comply with the laws of the state of Montana or the rules of the department or has misrepresented any material fact in its application for an authorization to conduct a Calcutta pool, the department may take any other action authorized by law.

(2) Upon completion by the department of its investigation, the department shall notify the organization authorized to conduct the Calcutta pool of any penalties it intends to impose. If the organization then desires a hearing, it must submit a written request to the department within 20 days of the receipt of notice of intended department action.

(3) Upon receipt by the department of a written request for hearing, all subsequent proceedings shall be conducted in accordance with the Montana Administrative Procedure Act and the Attorney General's Model Rules of Procedure. (History: 23-5-115, MCA; IMP, 23-5-136, 23-5-223, MCA; NEW, 1990 MAR p. 828, Eff. 4/27/90.)

Subchapter 29 reserved

Subchapter 30

Illegal Gambling - Presumption and Procedure

23.16.3001 ILLEGAL GAMBLING - PRESUMPTION (1) In any case where the department is able to establish probable cause that a gambling activity not authorized by statute is taking place or that a gambling device or gambling enterprise not authorized by statute is being made available to the public, the department shall presume that such activity, device, or enterprise is illegal. The presumption shall be a disputable presumption as that term is defined in Rule 301, Mont. R. Evid. (History: 23-5-115, MCA; IMP, 23-5-111, 23-5-151, MCA; NEW, 1990 MAR p. 828, Eff. 4/27/90.)

23.16.3002 PROCEDURE UPON PRESUMPTION (1) In cases where the department has presumed the existence of an illegal gambling activity, device, or enterprise, the department may issue a notice and opportunity for hearing on a

permanent cease and desist order regarding that activity. The department may, in its discretion, seize the gambling device presumed to be illegal or issue a temporary order to cease and desist from the gambling activity or enterprise presumed to be illegal.

(2) If the person presumed to be conducting illegal gambling then desires a hearing, he must submit a written request to the department within 20 days of the department's action.

(3) All proceedings in cases of presumed illegal gambling must be conducted pursuant to 23-5-136 and 23-5-137, MCA, the Montana Administrative Procedure Act, and the Attorney General's Model Rules of Procedure. (History: 23-5-115, MCA; IMP, 23-5-111, 23-5-113, 23-5-136, 23-5-151, MCA; NEW, 1990 MAR p. 828, Eff. 4/27/90.)

Subchapter 31

Casino Nights

23.16.3101 DEFINITIONS For the purposes of ARM 23.16.3102 through 23.16.3104, the following definitions apply:

(1) "Casino night" means a fundraising event as defined in 23-5-701, MCA.

(2) "Imitation money" means script, chips, tokens, or similar items that have an assigned value at a casino night that is greater than the value of the currency for which it is exchanged and that has no other value except for that value assigned at the casino night. (History: 23-5-715, MCA; IMP, 23-5-701, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91.)

23.16.3102 APPLICATION FOR PERMIT (1) A nonprofit organization as defined in 23-5-112, MCA, may apply to the department for a casino night permit by submitting a casino night permit application (form 11), which is available upon request from the department.

(2) In addition to the information required in 23-5-705, MCA, the application must include:

(a) a list of the games to be conducted during the casino night;

(b) the name and address of the member of the nonprofit organization responsible for managing the casino night;

(c) the intended use of the proceeds from the casino night;

(d) a $25 permit fee;

(e) a copy of the rules to be used to conduct the casino night as provided for in ARM 23.16.3103; and

(f) a copy of the organization's charter, certificate of incorporation as a nonprofit organization issued by the Montana Secretary of State, or other similar evidence of nonprofit status.

(3) A casino night permit may not be issued unless the application is dated and signed by the applicant and contains the information and attachments required in (2).

(4) An application for a casino night permit must be received by the department at least ten working days before the proposed start of the casino night. The department may process an application received by FAX but shall not issue a permit on such an application until the fee is received by the department. (History: 23-5-115, 23-5-715, MCA; IMP, 23-5-115, 23-5-702, 23-5-705, 23-5-706, 23-5-715, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1997 MAR p. 404, Eff. 2/25/97.)

23.16.3103 GENERAL REQUIREMENTS (1) A casino night must be conducted in accordance with Title 23, chapter 5, part 7, MCA, department rules, and the following requirements:

(a) The casino night permit issued by the department must be posted and clearly visible to persons participating in the casino night.

(b) Only those types of gambling activities for which the permit was issued may be conducted during the casino night.

(c) The casino night may be conducted only at the location for which the permit was issued and by the nonprofit organization issued the permit.

(d) Before conducting a casino night, the nonprofit organization shall develop rules governing the type of gambling activities to be conducted during the casino night and the manner in which they are to be conducted. The rules must identify the amount of the entry fee, value assigned to the imitation money and amount distributed to each participant, and the method for awarding prizes.

(e) Imitation money may be issued only during the casino night, and the money may not be redeemed by the permittee after the casino night has ended.

(f) No cash, currency, or other form of consideration may be used during the casino night except for imitation money as provided for in the casino night house rules.

(g) Cash or merchandise may be awarded as prizes. The value of the merchandise is not restricted to the prize limitations provided for in 23-5-312, 23-5-412, or 23-5-413, MCA.

(h) A prize may not be awarded in connection with the casino night to a person who was not present at the event and personally made the wager or personally obtained the ticket or chance resulting in the award payment.

(i)) A person under age 18 may not assist in operating or managing a casino night or participate as a player in any casino night activity, except for a raffle.

(j) No card game tournament may be part of a casino night.

(k) The organization issued the permit and the person identified as the manager of the casino night is responsible for ensuring compliance with Title 23, chapter 5, part 7, MCA, and department rules. (History: 23-5-115, 23-5-715, MCA; IMP, 23-5-701, 23-5-702, 23-5-705, 23-5-706, 23-5-710, 23-5-711, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 2007 MAR p. 848, Eff. 6/22/07; AMD, 2013 MAR p. 1606, Eff. 9/6/13.)

23.16.3104 REPORTING REQUIREMENTS (1) Within 30 days after a casino night is held, the nonprofit organization shall submit to the department a casino night report (form 12), which is available upon request from the department. A nonprofit organization that knowingly fails to file the report within the time required may not receive additional casino night permits.

(2) The report must contain the following information:

(a) total receipts collected from the casino night;

(b) total administrative expenses;

(c) total value of prizes awarded;

(d) total amount used for a civic, charitable, or educational purpose; and

(e) a description of the civic, charitable, or educational purpose for which the proceeds were used, including the name of any entity receiving proceeds. (History: 23-5-715, MCA; IMP, 23-5-710, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91.)

Fantasy Sports Leagues

23.16.3201 DEFINITIONS For the purposes of ARM 23.16.3201 through 23.16.3205, the following definitions apply:

(1) "Administrative fee" means an amount that may be charged a member for payment of expenses directly related to the operation of a fantasy sports league. An administrative fee may not exceed 15% of a member's entrance fee.

(2) "Entrance fee" means the amount charged a member, excluding any administrative fee, for membership in a fantasy sports league.

(3) "Fantasy sports league" means a gambling activity as defined in 23-5-801, MCA.

(4) "Member" means a person or group of persons who own a fictitious team that is a competitor in a fantasy sports league.

(5) "Prize" means anything of value awarded to a winner of a fantasy sports league.

(6) "Transaction fee" means an amount charged a member for trading or purchasing a player after the initial teams in the fantasy sports league are selected. The fee for each transaction may not exceed the entrance fee. (History: 23-5-115, MCA; IMP, 23-5-801, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91.)

23.16.3202 LEAGUE RULES (1) A copy of the fantasy sports league rules and information must be provided in writing to each member in the league.

(2) The rules must include:

(a) name, address, and telephone number of the person or organization conducting the league;

(b) amount charged for entrance, administrative, and transaction fees;

(c) name of the professional sport and teams on which the league is based;

(d) length of the season that the league is to operate;

(e) size of a member's team roster;

(f) method used to select players;

(g) method for awarding points to a team based on the performance of individual players, teams, or both during a designated period; and

(h) anticipated prizes to be awarded. (History: 23-5-115, MCA; IMP, 23-5-801, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91.)

23.16.3203 PRIZES (1) Prizes awarded to a winner of a fantasy sports league may be cash or merchandise or a combination of both.

(2) If a prize is merchandise, the purchase price paid for the merchandise is considered the value of the prize. (History: 23-5-115, MCA; IMP, 23-5-801, 23-5-805, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91.)

23.16.3204 RECORD KEEPING REQUIREMENTS (1) An organization or individual conducting a fantasy sports league shall retain the following records for one year after the league winners are determined:

(a) name and address of each individual who participated as a member in the league;

(b) total amount collected for each of the following fees:

(i) entrance;

(ii) administrative; and

(iii) nsaction.

(c) number of interim trades or purchases made by each member;

(d) proof of the purchase price of any merchandise prize awarded; and

(e) a list of the prizes awarded at the conclusion of the league season, including:

(i)) the amount of each prize;

(ii) name of the member awarded each prize; and

(iii) otal value of the payout of the fantasy league.

(2) Records required under this rule must be presented to the department upon request. (History: 23-5-115, MCA; IMP, 23-5-801, 23-5-805, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91.)

23.16.3205 RESTRICTIONS (1) A representative of each member of the fantasy sports league must be present to initially select team players and to trade or purchase interim players.

(2) Players for initial teams must be selected through a random drawing or competitive bidding process.

(3) An entrance fee and any administrative fee must be paid in cash at the time a member joins the league. A transaction fee must be paid in cash at the time the trade or purchase of an interim player is made.

(4) The total value of prizes awarded to all members must equal the total amount collected for entrance, administrative, and transaction fees, minus any payment for administrative expenses. (History: 23-5-115, MCA; IMP, 23-5-801, 23-5-805, MCA; NEW, 1991 MAR p. 1942, Eff. 10/18/91.)

Subchapters 33 and 34 reserved

Subchapter 35

Promotional Games of Chance

23.16.3501 DEPARTMENT APPROVAL OF PROMOTIONAL GAMES OF CHANCE, DEVICES OR ENTERPRISES (1) The department may approve devices, machines, instruments, apparatuses, contrivances, schemes, activities, or enterprises used in, or associated with, promotional games of chance authorized by Title 23, chapter 5, MCA. Any promotional game of chance offered or displayed in public without conforming to the requirements of this rule is prohibited.

(2) A bona fide promotional game of chance utilizes or involves any scheme, device, or enterprise, 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, and which is not manufactured or intended for purposes of gambling.

(a) As used in this rule, valuable consideration means a payment or promise of payment of anything of value, a token, object or article exchangeable for money or property, credit or promise directly or indirectly or contemplating transfer of money or property or interest therein, deposits or any other thing of pecuniary value as a condition of entering a promotional game of chance, or winning a prize from the game. Valuable consideration does not mean, for example, registering to participate or to qualify to participate in the promotional game of chance without purchasing goods or services; personally attending places or events without payment of an admission price or fee; or purchasing postage for purposes of mailing.

(b) Payouts for bona fide promotional games of chance, offered by a gambling licensee and/or an on-premises consumption liquor licensee, are subject to the maximum payout limitation for any single element of the authorized gambling

enterprise simulated. Payouts for bona fide promotional games of chance offered by any person or entity that are not a gambling or liquor licensee, are not limited by the payout limits for the authorized gambling enterprise simulated.

(3) Any devices, machines, instruments, apparatuses, contrivances, schemes, activities or enterprises that simulate the following games, variations of the following games, or in any manner incorporate aspects of the following games are prohibited and shall not be approved by the department:

(a) banking card games, such as blackjack, twenty-one, jacks or better, baccarat, or chemin de fer;

(b) dice games, such as craps, hazard, or chuck-a-luck;

(c) sports betting other than horse racing, sports pools as authorized by law, or as provided in (9); or

(d) table games, such as roulette or faro.

(4) Except as provided in (9) and (11) of this rule, all schemes, activities or enterprises that are not prohibited by (3) of this rule and that are used in bona fide promotional games of chance do not require approval by the department before such activities or enterprises are played, displayed, operated, or conducted in public so long as the game is conducted in compliance with these rules.

(5) All schemes, activities or enterprises shall be conducted in a manner that does not allow the winner to be unfairly predetermined or the game to be manipulated or rigged. The person or business conducting the promotion shall not arbitrarily remove, disqualify, disallow or reject any entry or fail to award prizes offered or print, publish or circulate literature or advertising material used in connection with such promotional game of chance that is false, deceptive or misleading.

(6) Gambling operators conducting promotional schemes, commonly called by such names as "coupon(s)" or "5 for 5", "5 for 10", or "10 for 5", in which an establishment pays for video gambling machine play to customers who purchase additional play on the machine shall post a clearly readable sign on a wall in the operator's establishment in full view of patrons playing video gambling machines. The sign shall include the following language:

> This establishment requests that if you accept one of our promotions or promotional coupons for video gambling machine play that you play the machine for [time limit established by location] minutes.
>
> Any customer or patron of this establishment may print a valid ticket voucher and cash-out any valid ticket voucher at any time during machine play. Mont. Code Ann. §23-5-608.
>
> If a customer or patron of this establishment chooses to cash-out their free or credit play in less than [time limit established by location] minutes, the establishment will cash-out their valid ticket voucher in full but reserves the right to refuse this promotional offer for future play.

(a) An operator who does not suggest, impose, recommend, or state a time limit is exempt from the foregoing sign requirement.

(7) All devices, machines, instruments, apparatuses, or contrivances not prohibited by (3) of this rule and which are used in bona fide promotional games of chance as provided in statute shall be approved by the department before such device is played or displayed in public. Persons submitting such proposed devices, machines, instruments, apparatuses, or contrivances for approval shall comply with the following:

(a) The applicant must submit a promotional device application to the department that shall include:

(i) a complete physical description, the printed circuit board schematics, and the wiring diagrams of the proposed device;

(ii) a complete description of the method of operation of the device and promotional scheme, activity, or enterprise in which the device is intended to be used;

(iii) marketing, promotion, or sale literature denoting that the new proposed device is for promotional purposes only; and

(iv) proof by a preponderance of the evidence that the proposed device was manufactured for purposes other than gambling. In determining whether a device meets the requirements of this rule, the department may review such factors as initial and resulting design of the device, its prior and intended use, the device's inability to accumulate credits, and the source of the device and component parts. The proposed device shall not be manufactured from already existing or modified gambling devices.

(b) Concurrent with the submission of the application pursuant to (7)(a), the applicant shall submit a prototype of the proposed device to the department for final physical inspection;

(c) The individual or entity submitting the game for review shall be responsible for transportation of the proposed device to and from the department's offices;

(d) The proposed device shall not be manufactured with an input mechanism or related components. For purposes of this rule only, an input mechanism is defined as an electrical, mechanical or electro-mechanical device, instrument, apparatus, contrivance, or part used or intended for use with money, token, credit, deposit, check, or any other thing of monetary value that by activation puts the device into the play mode. Examples of devices used as input mechanisms are: coin or token acceptors, bill acceptors, magnetic card readers, buttons or switches (local, wire remote, radio remote, etc.). Examples of related components include coin or token head, coin or token chute, and coin or token return;

(e) The proposed device must free play. For purposes of this rule only, free play means one game after another can be played without any intervention by player or operator;

(f) The proposed device shall be labeled "No Purchase Required" which is printed in a clearly legible typeface and which is displayed in a prominent manner that is immediately obvious to the casual observer.

(g) The manufacturer shall attach to the proposed device a manufacturer identification tag that includes the manufacturer name, the date the proposed device was manufactured, and a unique serial and model number;

(h) Thirty days from or after the date the department renders final approval of the proposed device, the applicant shall submit to the department 25 color photographic prints (5" x 7") of the front view of the authorized proposed device.

(8) No department approval is required for ticket or card devices described under 23-5-112(19)(a), MCA, and promotional wheel devices as defined herein, so long as such devices are bona fide promotional games of chance; and the ticket or card devices described under 23-5-112(19)(a), MCA, comply with (7)(f) of this rule; and promotional wheel devices comply with (7)(e), (f), and (g) of this rule. For the purposes of this rule, a promotional wheel device is defined as one or more vertically constructed circular frames or disks, displaying various symbols, such as numbers or pre-identified sectors, that is freely spun for the random selection of a symbol as determined by a permanently stationary mark for selecting the particular symbol

when the wheel stops spinning.

(9) The department may, on a case-by-case basis, approve schemes, activities or enterprises that simulate the sport guessing game defined under this subsection as "pick-the-winners." "Pick-the-winners" is a bona fide promotional game of chance where participants choose one team to win a sports event from a predesignated number of sports events during a particular week, and where the participant who chooses the most winning teams wins a predesignated prize. In the event of a tie, there must be one additional tie-breaker contest for the participants to pick the winning team and guess the score of the contest. The tied participant who picks the winning team and whose guess is closest to the final score of the tie breaker contest shall be declared the winner. "Pick-the-winners" games using any form of written advertisements, promotional or informational material, or entry or application forms shall comply with (7)(f) of this rule. For purposes of this subsection, a "predesignated prize" shall not exceed the value of $100 and shall be either cash or tangible merchandise. "Pick-the-winners" games shall be conducted in compliance with these rules.

(10) Upon completion by the department of its investigation of a proposed device, activity, or enterprise for use in a promotional game of chance, the department shall notify the person submitting the device or enterprise in writing of the department's decision. If the person then desires a hearing, he or she must submit a written request to the department within 20 days. From that point forward, all proceedings shall be conducted in accordance with the Montana Administrative Procedure Act and the Attorney General's Model Rules of Procedure.

(11) Nothing in this rule is intended to approve or authorize promotional games of chance conducted via wire, satellite or telephone communication or similar remote electronic forum. Approval from the department is required for all such proposed activities.

(12) For any violation of this rule, the department may:

(a) act by means of temporary cease and desist orders under 23-5-136(1)(a), MCA; or

(b) impose civil penalties under 23-5-136(1)(b), MCA. (History: 23-5-115, MCA; IMP, 23-5-112, 23-5-115, 23-5-152, MCA; NEW, 1993 MAR p. 2786, Eff. 11/25/93; NEW, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 2002 MAR p. 2441, Eff. 9/13/02; AMD, 2003 MAR p. 1282, Eff. 6/27/03; AMD, 2014 MAR p. 1505, Eff. 7/11/14.)

23.16.3502 CASHING PAYROLL CHECKS -- DEFINITION OF FINANCIAL INCENTIVES (1) A licensee may not offer financial incentives or conduct promotional games of chance in connection with an offer to cash payroll checks on the premises.

(2) A "financial incentive," means any inducement involving the payment of money, any reduction in price paid for goods or services, or any award of credit. (History: 23-5-115, MCA; IMP, 23-5-164, MCA; NEW, 1993 MAR p. 2786, Eff. 11/25/93; NEW, 1994 MAR p. 2834, Eff. 10/28/94.)

Subchapters 36 and 37 reserved

Subchapter 38

Carnival Games

23.16.3801 REVIEW OF CARNIVAL GAMES (1) Carnival games that are

intended to be operated at a fair or carnival may be submitted to the department for analysis with the purpose of determining if the games meet the requirements of 23-6-102, MCA. No games shall be authorized unless specifically approved by the department following a review of the game and how it is played. The department may authorize a game not listed in 23-6-104, MCA, if, after careful review, it can be demonstrated that winning is not contingent upon lot or chance and is based upon the skill of the player as defined under 23-6-104(2)(h)(xiv), MCA. No device, machine, instrument, apparatus, contrivance, scheme, or system which meets the definition of gambling as in 23-5-112, MCA, shall be approved.

(2) The actual game must be submitted, not a facsimile or description of the game. The following information must be included with each game submitted:

(a) the name of the person or entity submitting the game, with address and telephone number;

(b) instructions for operation of the game and rules by which the game is played;

(c) all technical manuals, schematics, printed wire assembly and hardware block diagrams, microprocessor manuals, source listings, flow charts, programmer's comments (if applicable); and

(d) any pertinent information the department may deem necessary to complete the review.

(3) A fee shall be collected to offset the department's costs associated with the review, and shall be based on staff time expended to complete the review and shall be charged on an hourly basis. The fee shall be the responsibility of the individual or entity submitting the game. No approval shall be considered final until the fees have been paid.

(4) The individual or entity submitting the game for review shall be responsible for transportation of the game to and from the department's offices.

(5) The department shall have 30 days after submission of the game to complete the review. Final approval shall be given only after payment of fees.

(History: 23-5-115, MCA; IMP, 23-6-104, MCA; NEW, 1993 MAR p. 2786, Eff. 11/25/93; NEW, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 2014 MAR p. 1505, Eff. 7/11/14.)

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