



ADMINISTRATIVE RULES OF MONTANA



23.16.101 DEFINITIONS

As used throughout this chapter, the following definitions apply:

- (1) "AARS" (automated accounting and reporting system) means a system that, at a minimum, is used to electronically report VGM accounting data to the State of Montana.
- (2) "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 AARS, as provided in 23-5-637, MCA.
- (3) "Active investor" means a beneficial owner as defined by the U.S. Securities and Exchange Commission (SEC) which includes an individual or group of individuals who directly or indirectly own 5% or more of a publicly traded corporation and directly or indirectly share voting power or investment power, including anyone who would be required to file a Schedule 13D with the SEC.
- (4) "Control" means the power to cause or direct management and policies through ownership, contract, or otherwise.
- (5) "Day" means the period of time, or any portion thereof, between any midnight and the midnight following.
- (6) "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.
- (7) "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.
- (8) "Gambling license" means any license issued by the department pursuant to Title 23, chapter 5, MCA.
- (9) "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 (8)(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.

- (10) "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.
- (11) "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.
- (12) "Location manager" means a person employed or designated by the licensee to provide general oversight and ensure compliance with gambling laws and regulations under the authority and general guidance of the owner. A location manager may be a licensed owner, general manager, or onsite manager.
- (13) "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.
- (14) "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.
- (15) "Noninstitutional lender" or "noninstitutional source" means:
 - (a) a person other than an institutional lender as defined in (8) 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.
- (16) "Owner" or "owner of an interest" means a person holding ownership as defined in 23-5-112, MCA. The term "owner" or "owner of an interest" does not include route operators with a right to share in proceeds from VGMs they have leased to location operators. "Owner" or "owner of an interest" includes:
 - (a) guarantors on a loan to a gambling licensee from a noninstitutional source who make actual debt payments on behalf of a gambling licensee:
 - (i) that are disclosed as capital contributions; or
 - (ii) that the department determines are not actual loans to the gambling licensee under ARM 23.16.122;
 - (b) coborrowers, guarantors, and pledgors of collateral on a loan to a gambling licensee from a regulated lender who make actual debt payments on behalf of a gambling licensee and:
 - (i) who make actual debt payments on behalf of a gambling licensee and fail to meet the suitability requirements of 23-5-176, MCA; or
 - (ii) who make actual debt payments on behalf of a gambling licensee and fail to timely make complete disclosures of payments as required by 23-5-118, MCA;

- (c) 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
 - (d) 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.
- (17) "Passive investor" means a beneficial owner as defined by the U.S. Securities and Exchange Commission (SEC) which includes an individual or group of individuals who directly or indirectly own at least 5% but less than 20% of the shares of a publicly traded corporation, who have not acquired and who do not hold the securities for the purpose of, or with the effect of, changing or influencing the control of the issuer of the securities and who would be allowed to file with the SEC a schedule 13G in lieu of Schedule 13D.
- (18) "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.
- (19) "Security interest" means an interest that is reserved or created by an agreement that secures payment or performance of an obligation.
- (20) "Stranger to the license" means a person who has not both applied for licensure under Title 23, chapter 5, MCA, and these rules, and been approved by the department to hold an ownership interest in that licensed gambling operation.
- (21) "Transfer" means to sell, assign, lease, or otherwise convey.
- (22) "VGM" means a video gambling machine as defined in 23-5-112, MCA.
- (23) "Working day" means every day except Saturdays, Sundays and all state legal holidays enumerated under 1-1-216, MCA.

Authorizing statute(s): 23-5-115, 23-5-621, MCA

Implementing statute(s): 23-5-112, 23-5-115, 23-5-118, 23-5-176, 23-5-629, 23-5-637, MCA

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