

HOUSE BILL NO. 156

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE MARTIN

Introduced: 2/24/97

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to charitable gaming; relating to the percentages of gross
2 receipts from charitable gaming that are required to be devoted to charitable
3 uses; requiring managers of charitable gaming activities to be licensed; removing
4 the authority for operators to conduct charitable gaming; prohibiting permittees,
5 members in charge, and gaming managers from having certain financial interests
6 or associations with persons who have been convicted of certain crimes; and
7 providing for an effective date."

8 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

9 * **Section 1.** AS 05.15.020(b) is amended to read:

10 (b) An additional fee of one percent of the **gross receipts** [NET PROCEEDS]
11 received during the preceding year from the activities authorized under the permit shall
12 be paid to the department annually by the municipality or qualified organization
13 authorized to conduct activities under this chapter [,] if the gross receipts for the

1 activities were \$20,000 or more.

2 * **Sec. 2.** AS 05.15.030(a) is amended to read:

3 (a) At the time of filing an application for a permit [OR LICENSE] under this
4 chapter, the applicant shall notify the city or borough nearest to the location of the
5 proposed activity of the application. A local government unit may protest the conduct
6 of the activity in its jurisdiction by resolution stating the reasons for the protest filed
7 with the department; protests are limited to the lack of qualifications prescribed by this
8 chapter. This resolution is only a recommendation by the local government that may
9 be considered by the department in determining whether to issue or refuse to issue a
10 permit [OR LICENSE].

11 * **Sec. 3.** AS 05.15.030(c) is amended to read:

12 (c) If a permittee [OR LICENSEE] changes the location of an activity in the
13 jurisdiction for which a permit has been issued, the permittee shall notify the
14 department and the local government within 10 days after moving to the new location.

15 * **Sec. 4.** AS 05.15.060(a) is amended to read:

16 (a) The department shall adopt regulations under AS 44.62 (Administrative
17 Procedure Act) necessary to carry out this chapter covering, but not limited to,

18 (1) the issuance, renewal, and revocation of permits, **certificates**
19 [LICENSES], and vendor registrations;

20 (2) [A METHOD OF ASCERTAINING NET PROCEEDS, THE
21 DETERMINATION OF ITEMS OF EXPENSE THAT MAY BE INCURRED OR
22 PAID, AND THE LIMITATION OF THE AMOUNT OF THE ITEMS OF EXPENSE
23 TO PREVENT THE PROCEEDS FROM THE ACTIVITY PERMITTED FROM
24 BEING DIVERTED TO NONCHARITABLE, NONEDUCATIONAL,
25 NONRELIGIOUS, OR PROFIT-MAKING ORGANIZATIONS, INDIVIDUALS, OR
26 GROUPS;

27 (3) the immediate revocation of permits, **certificates** [LICENSES], and
28 vendor registrations authorized under this chapter if this chapter or regulations adopted
29 under it are violated;

30 **(3)** [(4)] the requiring of detailed, sworn, financial reports of operations
31 from permittees [AND LICENSEES] including detailed statements of receipts and

1 payments;

2 (4) [(5)] the investigation of permittees, **gaming managers**
 3 [LICENSEES], registered vendors, and their employees, including the fingerprinting
 4 of those permittees, **gaming managers** [LICENSEES], registered vendors, and
 5 employees whom the department considers it advisable to fingerprint;

6 (5) [(6)] the method and manner of conducting authorized activities and
 7 awarding of prizes or awards [,] and the equipment that may be used;

8 (6) [(7)] the number of activities that may be held, operated, or
 9 conducted under a permit during a specified period; however, the department may not
 10 allow more than 14 bingo sessions a month and 35 bingo games a session to be
 11 conducted under a permit; the holders of a multiple-beneficiary permit under
 12 AS 05.15.100(d) may hold, operate, or conduct the number of sessions and games a
 13 month equal to the number allowed an individual permittee **a** [PER] month multiplied
 14 by the number of holders of the multiple-beneficiary permit;

15 (7) [(8)] A METHOD OF ACCOUNTING FOR RECEIPTS AND
 16 DISBURSEMENTS BY OPERATORS, INCLUDING THE KEEPING OF RECORDS
 17 AND REQUIREMENTS FOR THE DEPOSIT OF ALL RECEIPTS IN A BANK;

18 (9)] the disposition of funds in possession of a permittee, **a gaming**
 19 **manager** [A PERSON, MUNICIPALITY, OR QUALIFIED ORGANIZATION THAT
 20 POSSESSES AN OPERATOR'S LICENSE], or a registered vendor at the time a
 21 permit, **a certificate** [A LICENSE], or a vendor registration is surrendered, revoked,
 22 or invalidated;

23 (8) [(10)] restrictions on the participation by employees of the
 24 Department of Fish and Game in salmon classics and in king salmon classics, and by
 25 employees of Douglas Island Pink and Chum in king salmon classics;

26 (9) [(11)] other matters the department considers necessary to carry out
 27 this chapter or protect the best interest of the public.

28 * **Sec. 5.** AS 05.15.070 is amended to read:

29 Sec. 05.15.070. **Examination of books and records.** The department may
 30 examine or have examined the books and records of a permittee, [AN OPERATOR,]
 31 a registered vendor, **a gaming manager**, or a person licensed to manufacture or to

1 distribute pull-tab games in the state. The department may issue subpoenas for the
2 attendance of witnesses and the production of books, records, and other documents.

3 * **Sec. 6.** AS 05.15.080 is amended to read:

4 **Sec. 05.15.080. Reports and fees required of municipalities and qualified**
5 **organizations.** (a) A municipality or a qualified organization issued a permit under
6 this chapter shall file a report with the department by the 45th day following each
7 calendar quarter in which the permittee had gross receipts of \$50,000 or more from
8 activities authorized under this chapter. The report must include the type of activity
9 conducted, the date and location of the activity, the amount of gross receipts, [THE
10 AMOUNT OF AUTHORIZED EXPENSES,] the value of prizes awarded, [THE
11 AMOUNT OF NET PROCEEDS,] and other information the department may require.
12 However, if the only activity conducted by a municipality or qualified organization
13 during a calendar quarter is a raffle or lottery, then the municipality or qualified
14 organization is not required to file a report under this subsection until the raffle or
15 lottery is completed.

16 (b) A municipality or a qualified organization issued a permit under this
17 chapter shall file an annual report with the department by March 15 of the year
18 following the year in which activities were conducted, accompanied by the payment
19 of the additional fee, as may be required under AS 05.15.020(b). The report must list
20 the types of activities conducted, and, for each activity, the total amount of gross
21 receipts, [THE TOTAL AMOUNT OF AUTHORIZED EXPENSES,] the total value
22 of prizes awarded, and the total amount of **gross receipts retained for charitable uses**
23 [NET PROCEEDS].

24 * **Sec. 7.** AS 05.15.090 is amended to read:

25 **Sec. 05.15.090. Agency reports.** Before April 15 of each year, the department
26 shall prepare a detailed report containing a summary of all reports required of
27 permittees [AND OPERATORS]. The attorney general and the commissioner of
28 public safety shall, within 10 days after the convening of the legislature each year,
29 jointly prepare a detailed report outlining the effect, if any, of the operation of this
30 chapter on the legal and law enforcement activities of the state and notify the
31 legislature that the report is available.

1 * **Sec. 8.** AS 05.15.095(a) is amended to read:

2 (a) The applications and reports to the department required by this chapter
3 shall be signed under penalty of unsworn falsification by the following person, as
4 applicable:

- 5 (1) the member in charge for the qualified organization;
6 (2) a person authorized to sign on behalf of the municipality;
7 (3) [THE OPERATOR OR THE OPERATOR'S AGENT;
8 (4)] the licensed pull-tab distributor or the distributor's agent; or
9 (4) [(5)] the licensed pull-tab manufacturer or the manufacturer's agent.

10 * **Sec. 9.** AS 05.15.095(b) is amended to read:

11 (b) A permittee [OR OPERATOR] may not conduct an activity under this
12 chapter during a period in which a report or fee is delinquent.

13 * **Sec. 10.** AS 05.15.095(d) is amended to read:

14 (d) A permittee [OR LICENSEE] under this chapter shall pay a penalty of one
15 percent of the unpaid balance, as determined by the department, of a fee due under this
16 chapter for each 30-day period or part of a 30-day period that the fee is delinquent.
17 The department may waive the penalty if the failure to pay the fee on time is due to
18 a reasonable cause, as defined by regulation adopted by the department. The amount
19 of the penalty may not exceed 25 percent of the unpaid fee.

20 * **Sec. 11.** AS 05.15.105(a) is amended to read:

21 (a) If a person has been convicted of a violation of a law of this state that is,
22 or a law or ordinance of another jurisdiction that would be if it had been committed
23 in this state, a felony, or a violation of a law or ordinance of this state or another
24 jurisdiction that is a crime involving theft or dishonesty or a violation of gambling
25 laws,

26 (1) [THE DEPARTMENT MAY NOT ISSUE A LICENSE TO THE
27 PERSON;

28 (2)] the department may not [ISSUE A LICENSE TO, OR] register as
29 a vendor, an applicant who employs the person as a gaming manager or in a
30 managerial or supervisory capacity or uses the person as a fund raiser or consultant;

31 (2) [(3)] the department may not issue a permit for an activity if the

1 person is responsible for the operation of the activity;

2 (3) [(4)] the person may not be employed **as a gaming manager or**
 3 in a managerial or supervisory capacity by a [LICENSEE OR] vendor or used as a
 4 fund raiser or consultant by a [LICENSEE OR] vendor;

5 (4) [(5)] the person may not participate in charitable gaming as a
 6 permittee, **gaming manager** [LICENSEE], or vendor.

7 * **Sec. 12.** AS 05.15.112(b) is amended to read:

8 (b) The member in charge is responsible for preparation, maintenance, and
 9 transmittal of all records and reports required of the permittee [, AND, IF THE
 10 PERMITTEE HAS ENTERED INTO A CONTRACT WITH AN OPERATOR
 11 UNDER AS 05.15.115, FOR MONITORING THE OPERATOR'S PERFORMANCE
 12 UNDER AND COMPLIANCE WITH THAT CONTRACT]. The alternate members
 13 in charge are responsible for the duties of the member in charge in the absence of the
 14 member in charge. The member in charge and the alternate members in charge shall
 15 be members of the qualified organization or the board of directors of the qualified
 16 organization or employees of the municipality. In the case of a multiple beneficiary
 17 permit, the member in charge and the alternate members in charge shall be members
 18 of one of the qualified organizations or the board of directors of one of the qualified
 19 organizations or **employees** [EMPLOYERS] of one of the municipalities.

20 * **Sec. 13.** AS 05.15 is amended by adding a new section to read:

21 **Sec. 05.15.114. Gaming manager.** (a) A permittee may not employ, contract
 22 with, or in any way engage a person to act as a gaming manager for the permittee
 23 unless the person is certified by the department as a gaming manager. A person may
 24 not act as a gaming manager for a permittee unless the person is certified by the
 25 department as a gaming manager.

26 (b) The department may certify a person as a gaming manager if the person
 27 (1) applies on a form provided by the department;
 28 (2) pays the application fee set by the department by regulation;
 29 (3) submits two complete sets of fingerprints on Federal Bureau of
 30 Investigation approved fingerprint cards that are of sufficient quality so that the
 31 fingerprints may be processed; and

1 (4) has passed a test formulated by the department on the contents of
2 this chapter and the regulations adopted under this chapter.

3 (c) Notwithstanding (b) of this section, a person may not be certified, and may
4 not maintain a certification, as a gaming manager if the person is licensed as a pull-tab
5 manufacturer under AS 05.15.181 or a pull-tab distributor under AS 05.15.183.

6 (d) A person certified as a gaming manager may not

7 (1) have or maintain a financial interest or association with a person
8 who is prohibited from involvement with charitable gaming under AS 05.15.105; or

9 (2) own any property or equipment used in the conduct of the activity
10 and may not receive compensation of any form or type that is not subject to federal
11 withholding taxes and that is not reported on Internal Revenue Service Form 941.

12 * **Sec. 14.** AS 05.15.124 is amended to read:

13 **Sec. 05.15.124. Municipal regulation of [OPERATORS OR] vendors.** A
14 municipality may by ordinance prohibit [AN OPERATOR OR] a vendor from
15 conducting activities under this chapter within the municipality.

16 * **Sec. 15.** AS 05.15.145(d) is amended to read:

17 (d) The holders of a multiple-beneficiary permit shall jointly file

18 (1) **quarterly** reports with the department **by the last business day of**
19 **the month following each calendar quarter in which an activity was conducted;**
20 **the report must include the date and location of each activity, the type of activity**
21 **conducted, the amount of gross receipts, the amount of gross receipts paid to the**
22 **holders of the permit, the value of prizes awarded, and other information the**
23 **department may require; a completed Internal Revenue Service Form 941; and**
24 **a copy of the employer contributions and wage reports submitted to the**
25 **Department of Labor for the employees that conducted each activity; and**

26 (2) **an annual report with the department no later than**
27 **February 28 of the year following the year in which activities were conducted; the**
28 **report must include the types of activities conducted, the total amount of gross**
29 **receipts, the total value of prizes awarded, and the total amount of gross receipts**
30 **paid to each holder of the permit; the report must also include a completed**
31 **Internal Revenue Service Form W-2 for each person employed or paid to conduct**

1 the activities [THAT COMPLY WITH THE REPORTING REQUIREMENTS
2 IMPOSED ON OPERATORS UNDER AS 05.15.083].

3 * **Sec. 16.** AS 05.15.150 is amended to read:

4 **Sec. 05.15.150. Limitation on use of proceeds.** (a) The authority to conduct
5 the activity authorized by this chapter is contingent upon the dedication of **at least 30**
6 **percent of the gross receipts of each** [THE NET PROCEEDS OF THE] charitable
7 gaming activity to [THE AWARDING OF PRIZES TO CONTESTANTS OR
8 PARTICIPANTS AND TO] political, educational, civic, public, charitable, patriotic,
9 or religious uses in the state. "Political, educational, civic, public, charitable, patriotic,
10 or religious uses" means uses benefiting persons either by bringing them under the
11 influence of education or religion or relieving them from disease, suffering, or
12 constraint, or by assisting them in establishing themselves in life, or by providing for
13 the promotion of the welfare and well-being of the membership of the organization
14 within their own community, or through aiding candidates for public office or groups
15 that support candidates for public office, or by erecting or maintaining public buildings
16 or works, or lessening the burden on government, but does not include

17 (1) the direct or indirect payment of any portion of the **gross receipts**
18 [NET PROCEEDS] of a bingo or pull-tab game to a lobbyist registered under
19 AS 24.45;

20 (2) the erection, acquisition, improvement, maintenance, or repair of
21 real, personal, or mixed property unless it is used exclusively for one or more of the
22 permitted uses; or

23 (3) the direct or indirect payment of any portion of the **gross receipts**
24 [NET PROCEEDS] of a charitable gaming activity, except the proceeds of a raffle and
25 lottery,

26 (A) to aid candidates for public office or groups that support or
27 oppose candidates for public office;

28 (B) to a political party or to an organization affiliated with a
29 political party; or

30 (C) to a group, as that term is defined in AS 15.13.400, or a
31 political group, as that term is defined in AS 15.60, that seeks to influence the

1 outcome of an election.

2 (b) The percentage of gross receipts dedicated to charitable uses [NET
3 PROCEEDS] derived from the activity must be devoted within one year to one or
4 more of the uses stated in (a) of this section. A municipality or qualified organization
5 desiring to hold the percentage of gross receipts [NET PROCEEDS] for a period
6 longer than one year must apply to the department for special permission, and, upon
7 good cause shown, the department may grant the request.

8 * **Sec. 17.** AS 05.15.170 is amended to read:

9 **Sec. 05.15.170. Suspension or revocation of permit, license, or vendor**
10 **registration.** (a) The department may suspend, for a period of up to one year, or
11 revoke a permit, certificate [LICENSE], or vendor registration, after giving notice to
12 and an opportunity to be heard by the permittee, gaming manager [OR LICENSEE],
13 if the permittee, gaming manager [LICENSEE], or vendor

14 (1) violates or fails to comply with a requirement of this chapter or of
15 a regulation adopted under this chapter;

16 (2) breaches a contractual agreement with a permittee [, LICENSEE,]
17 or registered vendor;

18 (3) becomes disqualified to participate in charitable gaming as provided
19 in AS 05.15.105; for the purposes of this paragraph, a permittee [, LICENSEE,] or
20 vendor that is not a natural person is considered convicted if an owner or manager of
21 the permittee [, LICENSEE,] or vendor is convicted;

22 (4) knowingly submits false information to the department or, in the
23 case of a registered vendor, to a permittee when the vendor knows that the false
24 information will be submitted to the department as part of an application for
25 registration; or

26 (5) gives or acts upon any inside information on the status of the prizes
27 awarded or to be awarded in a pull-tab game.

28 (b) If the department revokes a gaming manager certificate [LICENSE], or
29 vendor registration under this section, it may prohibit the gaming manager
30 [LICENSEE] or vendor from reapplying for a certificate [LICENSE] or vendor
31 registration for a period of not more than five years. If the department revokes a

1 permit under this section, it may prohibit the permittee from reapplying for a permit
2 for a period of not more than one year.

3 * **Sec. 18.** AS 05.15.180(b) is amended to read:

4 (b) With the exception of raffles, lotteries, bingo games, pull-tab games, rain
5 classics, goose classics, mercury classics, deep freeze classics, snow machine classics,
6 mushing sweepstakes, canned salmon classics, salmon classics, king salmon classics,
7 an activity may not be **permitted** [LICENSED] under this chapter unless it existed in
8 the state in substantially the same form and was conducted in substantially the same
9 manner before January 1, 1959. A snow machine classic may not be **permitted**
10 [LICENSED] under this chapter unless it has been in existence for at least five years
11 before the **permitting** [LICENSING].

12 * **Sec. 19.** AS 05.15.180(g) is amended to read:

13 (g) A municipality or a qualified organization may award a maximum of
14 \$1,000,000 in prizes each year in activities authorized under this chapter [;
15 HOWEVER, IF A MUNICIPALITY OR A QUALIFIED ORGANIZATION
16 CONTRACTS WITH AN OPERATOR TO CONDUCT ON ITS BEHALF
17 ACTIVITIES AUTHORIZED UNDER THIS CHAPTER, THE MUNICIPALITY OR
18 QUALIFIED ORGANIZATION MAY AWARD A MAXIMUM OF \$500,000 IN
19 PRIZES EACH YEAR]. The holders of a multiple-beneficiary permit under
20 AS 05.15.100(d) may award a maximum in prizes each year of \$1,000,000 times the
21 number of holders of the permit for activities authorized under this chapter. In this
22 subsection, "activities authorized under this chapter" means all activities subject to this
23 chapter other than bingo.

24 * **Sec. 20.** AS 05.15.185 is amended to read:

25 **Sec. 05.15.185. Distribution of pull-tab games.** Each series of pull-tabs
26 distributed in the state must be sealed and have a serial number label issued by the
27 National Association of Fundraising Ticket Manufacturers or other serial number label
28 approved by the department and may be distributed only to

29 (1) a municipality or a qualified organization that has obtained a permit
30 issued under this chapter; **or**

31 (2) [AN OPERATOR ON BEHALF OF AN AUTHORIZING

1 PERMITTEE; OR

2 (3)] a distributor licensed under this chapter.

3 * **Sec. 21.** AS 05.15.187(g) is amended to read:

4 (g) Notwithstanding other provisions of this chapter, a pull-tab game that
5 confers an additional right upon all or some of the purchasers of a pull-tab series to
6 participate in a lottery for additional prizes may not be conducted in the state unless
7 a surety bond in the amount of \$250,000 conditioned upon payment of all prizes and
8 awards when due is submitted to the department by the [OPERATOR OR
9 AUTHORIZING] permittee and approved by the attorney general.

10 * **Sec. 22.** AS 05.15.187(h) is amended to read:

11 (h) An owner, manager, or employee of a person holding a permit [OR
12 LICENSE] under this chapter, or registered under this chapter as a vendor, may not
13 purchase a pull-tab from a pull-tab series manufactured, distributed, or sold by the
14 permittee [, LICENSEE,] or registered vendor.

15 * **Sec. 23.** AS 05.15.187(i) is amended to read:

16 (i) A permittee [, OPERATOR,] or registered vendor may not turn over a prize
17 of \$50 or more to a person with a pull-tab card entitling the person to that prize unless
18 the person signs a receipt for the prize and returns the receipt to the permittee [,
19 OPERATOR,] or vendor. The receipt must be in a form approved by the department.

20 * **Sec. 24.** AS 05.15.188(h) is amended to read:

21 (h) If a permittee contracts with a vendor under (a) of this section, the contract
22 must provide that the permittee shall receive no less than **30** [70] percent of the ideal
23 **gross** net.

24 * **Sec. 25.** AS 05.15.188(i) is amended to read:

25 (i) An amount equal to the ideal **gross** [NET] less the compensation owed to
26 the vendor shall be paid by the vendor to the member-in-charge upon delivery of a
27 pull-tab series to the vendor for sale. The amount required to be paid by the vendor
28 shall be paid by check, and the check may not be drawn in a manner that the payee
29 is not identified.

30 * **Sec. 26.** AS 05.15.600 is amended to read:

1 **Sec. 05.15.600. Cancellation of permits based on unlawful provision.** If any
 2 provision of this chapter, or regulation adopted under this chapter, is determined to be
 3 unlawful, then all permits issued in connection with the **permitted** [LICENSED]
 4 activity to which the unlawful provision or regulation related are cancelled.

5 * **Sec. 27.** AS 05.15.620(c) is amended to read:

6 (c) If a majority of the voters vote "yes" on the question set out in (a) or (b)
 7 of this section, the department shall be notified immediately after certification of the
 8 results of the election and thereafter the department may not issue a [LICENSE,]
 9 permit [,] or vendor registration authorizing charitable gaming or pull-tab sales, as
 10 appropriate, within the boundaries of a municipality and in unincorporated areas within
 11 five miles of the boundaries of the municipality or within the perimeter of an
 12 established village. As necessary to implement the results of an election under (a) or
 13 (b) of this section, existing [LICENSES,] permits [,] and vendor registrations for
 14 charitable gaming or pull-tab sales within the boundaries of a municipality and in
 15 unincorporated areas within five miles of the boundaries of the municipality or within
 16 the perimeter of an established village are void 90 days after the results of the election
 17 are certified. A [LICENSE OR] vendor registration that will expire during the 90 days
 18 after the results of a local option election under this section are certified is void as of
 19 the expiration date.

20 * **Sec. 28.** AS 05.15.680(b) is amended to read:

21 (b) A person who, with the intent to mislead a public servant in the
 22 performance of the public servant's duty, submits a false statement in an application
 23 for a permit, **certificate** [LICENSE], or vendor registration under this chapter is guilty
 24 of unsworn falsification.

25 * **Sec. 29.** AS 05.15.690(23) is amended to read:

26 (23) "ideal **gross** [NET]" means an amount equal to the total amount
 27 of receipts that would be received if every individual pull-tab ticket in a series were
 28 sold at face value [, LESS THE PRIZES TO BE AWARDED FOR THAT SERIES];

29 * **Sec. 30.** AS 05.15.690(36) is amended to read:

30 (36) "qualified organization" means a bona fide civic or service
 31 organization or a bona fide religious, charitable, fraternal, veterans, labor, political, or

1 educational organization, police or fire department and company, dog mushers'
2 association, outboard motor association, or fishing derby or nonprofit trade association
3 in the state, that operates without profits to its members and that has been in existence
4 continually for a period of three years immediately before applying for a **permit**
5 [LICENSE]; the organization may be a firm, corporation, company, association, or
6 partnership;

7 * **Sec. 31.** AS 05.15.690 is amended by adding a new paragraph to read:

8 (45) "gaming manager" means an individual who manages, controls,
9 or oversees the gaming activities of a municipality or qualified organization and who
10 directly or indirectly receives compensation in any form for that management, control,
11 or oversight;

12 * **Sec. 32.** AS 05.15.083, 05.15.087, 05.15.100(c), 05.15.112(c), 05.15.115, 05.15.122,
13 05.15.128, 05.15.160, 05.15.165, 05.15.167, 05.15.180(e), 05.15.188(j), 05.15.690(1),
14 05.15.690(2), 05.15.690(29) and 05.15.690(31) are repealed.

15 * **Sec. 33.** This Act takes effect January 1, 1998.