

HOUSE BILL NO. 509

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE KOTT

Introduced: 2/16/04

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to establishing the Alaska Gaming Commission."**

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

3 * **Section 1.** AS 04.11.370(c) is amended to read:

4 (c) If the board receives notice from the Alaska Gaming Commission
5 [DEPARTMENT OF REVENUE] that a licensee or permittee has violated a provision
6 of AS 05.15 related to gambling, the board

7 (1) may suspend the license or permit; and

8 (2) shall suspend the license or permit for a period of at least 30 days if
9 the offense is the person's second or subsequent violation of AS 05.15 related to
10 gambling.

11 * **Sec. 2.** AS 05.15.010 is amended to read:

12 **Sec. 05.15.010.** Alaska Gaming Commission [DEPARTMENT OF
13 REVENUE] to administer chapter. The Alaska Gaming Commission in the
14 Department of Revenue shall administer this chapter.

15 * **Sec. 3.** AS 05.15.690 is amended by adding a new paragraph to read:

1 (46) "commission" means the Alaska Gaming Commission.

2 * **Sec. 4.** AS 05 is amended by adding a new chapter to read:

3 **Chapter 18. Alaska Gaming Commission.**

4 **Article 1. Administration.**

5 **Sec. 05.18.010. Creation of commission.** (a) The Alaska Gaming
6 Commission is established for the purposes of generating revenue for the state and
7 regulating gaming activities in the state. The commission is established in the
8 Department of Revenue. The commission consists of seven members appointed by the
9 governor, subject to confirmation by the legislature. One member shall be appointed
10 from each of the four judicial districts of the state. Three members shall be at-large
11 members. Not more than four of the seven members may be members of the same
12 political party. The governor shall appoint one member to serve as chair of the
13 commission.

14 (b) Members serve staggered terms of three years. A member may be
15 reappointed but may not serve for more than six years.

16 (c) A member of the commission does not receive a salary for service on the
17 commission but is entitled to per diem and travel expenses authorized for members of
18 boards and commissions under AS 39.20.180.

19 (d) A member of the commission may not have a pecuniary interest in a
20 contract or agreement entered into by the commission.

21 (e) A person may not serve as a member of the commission if that person

22 (1) has been convicted of

23 (A) a felony; or

24 (B) an offense under this chapter, AS 11.66.200 - 11.66.280, or a
25 comparable provision of municipal, state, or federal law;

26 (2) holds a license, permit, or registration under AS 05.15; or

27 (3) is an elected official of the state or of a political subdivision of the
28 state.

29 (f) A person may not serve as a member of the commission until the
30 investigation required under AS 18.65.080(b) is completed.

31 (g) Four members of the commission constitute a quorum for the transaction of

1 business.

2 (h) The governor may remove a member for cause, including incompetence,
3 neglect of duty, or misconduct in office. A member being removed for cause shall be
4 given a copy of the charges and afforded an opportunity to publicly present a defense in
5 person or by counsel upon not less than 10 days' notice. If a member is removed for
6 cause, the governor shall file with the lieutenant governor a complete statement of all
7 charges made against the member and the governor's findings based on the charges,
8 together with a complete record of the proceedings.

9 (i) The governor may immediately suspend a member for a violation of law or
10 for misconduct in office pending removal from office under (a) of this section.

11 **Sec. 05.18.020. Meetings.** (a) The commission shall meet at least quarterly at
12 the call of the chair, at the request of a majority of the members, or at a regularly
13 scheduled time set by the commission.

14 (b) An action of the commission is not binding unless taken at a meeting
15 where four or more of the members are present and vote in favor of the action.

16 **Sec. 05.18.030. Duties and powers of commission.** (a) The commission
17 shall

18 (1) enter into contracts and agreements necessary to carry out the
19 provisions of this chapter;

20 (2) adopt regulations necessary to carry out the provisions of this
21 chapter;

22 (3) administer, regulate, and enforce the charitable gaming laws under
23 AS 05.15;

24 (4) determine policy direction for the operation and administration of
25 gaming in Alaska;

26 (5) report to the governor and the legislature each quarter on the
27 gaming activities authorized and on the total revenue, prize disbursement, and other
28 expenses for the preceding quarter;

29 (6) report to the governor and the legislature each year on authorized
30 gaming activities, including a full and complete statement of revenue, prize
31 disbursement, and other expenses, and recommendations for changes in this chapter;

1 (7) report to the governor and the legislature as frequently as the
 2 commission determines necessary on conclusions from the analysis of the reaction of
 3 state residents to gaming activities, and on matters that require changes in the law to
 4 prevent violations or evasions of this chapter or to correct undesirable conditions in
 5 connection with the operation or administration of gaming activities;

6 (8) monitor the operation of gaming throughout the state; and

7 (9) study and investigate the operation and administration of gaming
 8 laws of other states and of federal laws that affect gaming activities.

9 (b) The commission may participate with other states in multi-state gaming if
 10 permitted by the legislature.

11 **Sec. 05.18.040. Regulations.** The commission shall adopt regulations under
 12 AS 44.62 (Administrative Procedure Act) to establish

13 (1) the types of gaming activities to be conducted;

14 (2) the places and locations where gaming activities may be conducted;

15 and

16 (3) all matters necessary or desirable to carry out this chapter and
 17 AS 05.15, to operate gaming activities efficiently and economically, and to make the
 18 participation in gaming activities and the distribution of prizes convenient.

19 **Sec. 05.18.050. Executive director and employees.** (a) The commission
 20 shall employ an executive director who is qualified by training and experience to
 21 conduct the day-to-day work of the commission. The director may not engage in
 22 another profession or occupation.

23 (b) Subject to the approval of the commission, the director may appoint
 24 deputies required to carry out the functions and duties of the commission. The
 25 director may appoint professional, technical, and clerical employees necessary to
 26 perform the duties of the commission.

27 (c) The director and other employees of the commission are in the exempt
 28 service under AS 39.25.110.

29 (d) The commission may not employ a person who has been convicted,
 30 including conviction based on a guilty plea or plea of nolo contendere, of an offense
 31 that disqualifies a person from being a member of the commission.

1 **Sec. 05.18.060. Duties of director.** The director shall

- 2 (1) supervise the operation and administration of gaming activities;
- 3 (2) act as secretary to the commission;
- 4 (3) contract with agents and contractors to engage in or conduct or
5 operate gaming activities;
- 6 (4) meet at least quarterly with the commission on the operation and
7 administration of gaming activities;
- 8 (5) make available for inspection by the commission, upon request, all
9 books, records, files, and other information and documents of the commission;
- 10 (6) advise the commission and make recommendations to improve the
11 operation and administration of gaming in the state;
- 12 (7) suspend or revoke a contract issued under this chapter for a
13 violation of this chapter or the regulations adopted under this chapter;
- 14 (8) subject to the approval of the commission, enter into contracts for
15 the operation and administration of gaming activities, except that agent contracts are
16 not subject to the approval of the commission;
- 17 (9) provide each month to the commission a full and complete
18 statement of the revenue, prize disbursements, and other expenses for the preceding
19 month; and
- 20 (10) administer and enforce the charitable gaming laws in AS 05.15.

21 **Sec. 05.18.070. Subpoenas.** (a) The director or the commission may
22 subpoena witnesses and documents in a matter over which the commission has
23 jurisdiction, control, or supervision. The director or the commission may administer
24 oaths and affirmations to persons whose testimony is required.

25 (b) If a person fails to obey a subpoena, or if a person refuses to answer a
26 relevant question or to exhibit a document when ordered to do so by the director or the
27 commission, the director or the commission may apply to the superior court for an
28 order directing the person to comply with the subpoena or the order. The court may
29 order the person to comply.

30 **Article 2. Gaming Activities.**

31 **Sec. 05.18.100. Gaming activities.** The commission shall authorize

1 the gaming activities that the commission determines to be appropriate if the
 2 legislature has authorized those activities to be conducted in the state. The
 3 commission may not authorize a charitable gaming activity unless that activity is
 4 authorized under AS 05.15.

5 **Article 3. Miscellaneous Provisions.**

6 **Sec. 05.18.300. State gaming fund and appropriations.** There is created in
 7 the general fund the state gaming fund. The state gaming fund consists of all revenue
 8 received from gaming activities and all other money credited or transferred to the fund
 9 from another fund or source.

10 **Sec. 05.18.310. Audit.** The commission shall have an audit of the books and
 11 accounts of the commission performed at least once in each year by certified public
 12 accountants. The Legislative Budget and Audit Committee shall annually perform
 13 post-audits of the commission and report to the legislature. The commission may have
 14 special audits performed at any time on its own motion or at the request of the
 15 director. The commission shall file a copy of each audit with the commissioner of
 16 revenue and the legislature.

17 **Sec. 05.18.320. Prohibited acts.** (a) A person may not

18 (1) knowingly act as an agent or sell a gaming product unless the
 19 person has a contract with the commission to be an agent, or is an employee of an
 20 agent and sells gaming products or awards gaming prizes under the supervision of the
 21 agent;

22 (2) knowingly sell a gaming product at a price greater than that fixed
 23 by the commission;

24 (3) knowingly sell or offer to sell a gaming product to a person under
 25 21 years of age;

26 (4) knowingly present a counterfeit or altered gaming product for
 27 payment or transfer a counterfeit or altered gaming product to another person to
 28 present for payment;

29 (5) with intent to defraud, falsely make, alter, forge, utter, pass or
 30 counterfeit a gaming product; or

31 (6) impersonate a representative of the commission.

1 (b) A contractor, an agent, the governor, or an officer or employee of the
 2 commission or the Office of the Governor may not purchase a gaming product, receive
 3 a gaming prize, or participate in a gaming activity.

4 (c) An agent or contractor may not knowingly withhold funds owed to the
 5 commission.

6 (d) This section does not prohibit a person from giving a gaming product to
 7 another person of any age.

8 (e) In this section, "knowingly" has the meaning given in AS 11.81.900.

9 **Sec. 05.18.330. Assignment of contracts.** A person that enters into a contract
 10 under this chapter may not assign the contract without the approval of the commission.

11 **Sec. 05.18.340. Penalty.** A person that violates AS 05.18.320 or 05.18.330 is
 12 guilty of a class C felony.

13 **Sec. 05.18.350. Statement of odds.** Each gaming product must indicate the
 14 odds of winning a prize in the particular gaming activity represented by the product.

15 **Article 4. General Provisions.**

16 **Sec. 05.18.900. Definitions.** In this chapter, unless the context requires
 17 otherwise,

18 (1) "commission" means the Alaska Gaming Commission;

19 (2) "director" means the executive director of the commission;

20 (3) "gaming product" means a ticket, receipt, card, or other item,
 21 except a prize, received by a person from an agent or an employee of an agent as
 22 evidence of participation in a gaming activity under this chapter;

23 (4) "operation and administration" includes accounting, sales,
 24 promotion, and security;

25 (5) "person" has the meaning given in AS 01.10.060 and also includes
 26 an estate, receiver, trustee, assignee, referee, or other person acting in a fiduciary or
 27 representative capacity, whether appointed by a court or otherwise, and a department,
 28 commission, agency, or instrumentality of the state, including a municipality and an
 29 agency or instrumentality of a municipality.

30 * **Sec. 5.** AS 11.66.280(2) is amended to read:

31 (2) "gambling" means that a person stakes or risks something of value

1 upon the outcome of a contest of chance or a future contingent event not under the
 2 person's control or influence, upon an agreement or understanding that that person or
 3 someone else will receive something of value in the event of a certain outcome;
 4 "gambling" does not include

5 (A) bona fide business transactions valid under the law of
 6 contracts for the purchase or sale at a future date of securities or commodities
 7 and agreements to compensate for loss caused by the happening of chance,
 8 including contracts of indemnity or guaranty and life, health, or accident
 9 insurance;

10 (B) playing an amusement device that

11 (i) confers only an immediate right of replay not
 12 exchangeable for something of value other than the privilege of
 13 immediate replay; and

14 (ii) does not contain a method or device by which the
 15 privilege of immediate replay may be cancelled or revoked; or

16 (C) an activity authorized by the Alaska Gaming Commission
 17 [DEPARTMENT OF REVENUE] under AS 05.15 or AS 05.18;

18 * **Sec. 6.** AS 18.65.080 is amended by adding a new subsection to read:

19 (b) The Department of Public Safety shall investigate and ascertain whether a
 20 person appointed by the governor to serve as a member of the Alaska Gaming
 21 Commission has been convicted of a crime set out in AS 05.18.010(e).

22 * **Sec. 7.** AS 39.25.110(11) is amended to read:

23 (11) the officers and employees of the following boards, commissions,
 24 and authorities:

25 (A) [REPEALED

26 (B)] Alaska Permanent Fund Corporation;

27 **(B)** [(C)] Alaska Industrial Development and Export Authority;

28 **(C)** [(D)] Alaska Commercial Fisheries Entry Commission;

29 **(D)** [(E)] Alaska Commission on Postsecondary Education;

30 **(E)** [(F)] Alaska Aerospace Development Corporation;

31 **(F)** [(G)] Alaska Natural Gas Development Authority;

1 **(G) Alaska Gaming Commission:**

2 * **Sec. 8.** AS 39.50.200(b) is amended by adding a new paragraph to read:

3 (58) Alaska Gaming Commission (AS 05.18).

4 * **Sec. 9.** AS 05.15.690(9) is repealed.

5 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 REVISOR INSTRUCTION. The revisor of statutes is instructed to change references
8 to the "commissioner" and "department" in AS 05.15 to "commission" unless it is clear from
9 the context that "commissioner" refers to a commissioner other than the commissioner of
10 revenue and "department" refers to a department other than the Department of Revenue.