

CS FOR HOUSE BILL NO. 509(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/5/04

Referred: Rules

Sponsor(s): REPRESENTATIVE KOTT

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 five voting members and two ex
9 officio nonvoting members appointed by the governor, subject to confirmation by the
10 legislature. One voting member shall be appointed from each of the four judicial
11 districts of the state. One voting member shall be an at-large member. Not more than
12 three of the seven members may be members of the same political affiliation or party.
13 One voting member of the commission must have at least five years' experience in law
14 enforcement and one voting member must be a certified public accountant. One ex
15 officio member of the commission must hold a permit or license under AS 05.15 and
16 one ex officio member must hold a license or permit under AS 04.11. The voting
17 members of the commission shall elect one voting member to serve as chair of the
18 commission.

19 (b) The voting members serve staggered terms of three years. The ex officio
20 members serve nonstaggered three-year terms. A member may be reappointed but
21 may not serve for more than six years.

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

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

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

28 (1) has been convicted of

29 (A) a felony; or

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

1 (2) is an elected official of the state or of a political subdivision of the
2 state;

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

4 (4) holds a license or permit under AS 04.11.

5 (f) a person may not serve as an ex officio member of the commission if that
6 person has been convicted of a crime listed in (e)(1) of this section or is an elected
7 official of the state or of a political subdivision of the state.

8 (g) A person may not serve as a member of the commission until the
9 investigation required under AS 18.65.080(b) is completed.

10 (h) Three voting members of the commission constitute a quorum for the
11 transaction of business.

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

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

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

24 (b) An action of the commission is not binding unless taken at a meeting
25 where three or more of the voting members are present and vote in favor of the action.

26 (c) The voting members of the commission may exclude the ex officio
27 members from executive sessions otherwise permitted by law.

28 **Sec. 05.18.030. Duties and powers of commission.** The commission shall

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

31 (2) adopt regulations necessary to carry out the provisions of this

1 chapter;

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

4 (4) recommend policy direction for the operation and administration of
5 gaming activities in Alaska;

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

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

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

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

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

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

22 (1) the types of gaming activities to be conducted if those activities are
23 permitted under AS 05.18.100;

24 (2) the places and locations where gaming activities under this chapter
25 may be conducted; and

26 (3) all matters necessary or desirable to carry out this chapter to
27 operate gaming activities efficiently and economically, and to make the participation
28 in gaming activities and the distribution of prizes convenient.

29 **Sec. 05.18.050. Executive director and employees.** (a) The commission
30 shall employ an executive director who is qualified by training and experience to
31 conduct the day-to-day work of the commission. The director may not engage in

1 another profession or occupation.

2 (b) Subject to the approval of the commission, the director may appoint
3 deputies required to carry out the functions and duties of the commission. The
4 director may appoint professional, technical, and clerical employees necessary to
5 perform the duties of the commission.

6 (c) The director is in the exempt service under AS 39.25.110.

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

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

11 (1) supervise the operation and administration of gaming activities;

12 (2) act as secretary to the commission;

13 (3) meet at least quarterly with the commission on the operation and
14 administration of gaming activities;

15 (4) make available for inspection by the commission, upon request, all
16 books, records, files, and other information and documents of the commission;

17 (5) advise the commission and make recommendations to improve the
18 operation and administration of gaming in the state;

19 (6) suspend or revoke a contract issued under this chapter for a
20 violation of this chapter or the regulations adopted under this chapter;

21 (7) provide each month to the commission a full and complete
22 statement of the revenue, prize disbursements, and other expenses for the preceding
23 month; and

24 (8) administer and enforce the charitable gaming laws in AS 05.15.

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

29 (b) If a person fails to obey a subpoena, or if a person refuses to answer a
30 relevant question or to exhibit a document when ordered to do so by the director or the
31 commission, the director or the commission may apply to the superior court for an

1 order directing the person to comply with the subpoena or the order. The court may
2 order the person to comply.

3 **Article 2. Gaming Activities.**

4 **Sec. 05.18.100. Gaming activities.** (a) The commission may not authorize a
5 gaming activity unless that activity is authorized by the legislature in this section.

6 (b) The commission may participate with other states in multi-state gaming
7 activities if that participation and those activities are permitted by the legislature.

8 **Article 3. Miscellaneous Provisions.**

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

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

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

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

25 (2) knowingly sell or offer to sell a gaming product to a person under
26 21 years of age;

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

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

1 (5) impersonate a representative of the commission.

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

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

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

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

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

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

14 **Article 4. General Provisions.**

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

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

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

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

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

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

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

30 (2) "gambling" means that a person stakes or risks something of value
31 upon the outcome of a contest of chance or a future contingent event not under the

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

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

9 (B) playing an amusement device that

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

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

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

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

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

21 * **Sec. 7.** AS 39.25.110 is amended by adding a new paragraph to read:

22 (40) the executive director of the Alaska Gaming Commission.

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

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

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

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

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