

**SENATE BILL NO. 242**

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

**BY SENATOR COWDERY**

**Introduced: 1/12/04**

**Referred: Labor and Commerce, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to gaming."**

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.

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

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

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

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

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

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

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

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

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

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

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

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

## 29 **Article 2. Gaming Activities.**

30 **Sec. 05.18.100. Gaming activities.** The commission shall authorize  
 31 the gaming activities that the commission determines to be appropriate. The

1 commission may not authorize a charitable gaming activity unless that activity is  
2 authorized under AS 05.15.

3 **Article 3. Miscellaneous Provisions.**

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

8 **Sec. 05.18.310. Audit.** The commission shall have an audit of the books and  
9 accounts of the commission performed at least once in each year by certified public  
10 accountants. The commission may have special audits performed at any time on its  
11 own motion or at the request of the director. The commission shall file a copy of each  
12 audit with the commissioner of revenue and the legislature.

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

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

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

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

22 (4) knowingly present a counterfeit or altered gaming product for  
23 payment or transfer a counterfeit or altered gaming product to another person to  
24 present for payment;

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

27 (6) impersonate a representative of the commission.

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

31 (c) An agent or contractor may not knowingly withhold funds owed to the

1 commission.

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

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

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

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

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

#### 11 **Article 4. General Provisions.**

12 **Sec. 05.18.900. Definitions.** In this chapter, unless the context requires  
13 otherwise,

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

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

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

19 (4) "operation and administration" includes accounting, sales,  
20 promotion, and security;

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

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

27 (2) "gambling" means that a person stakes or risks something of value  
28 upon the outcome of a contest of chance or a future contingent event not under the  
29 person's control or influence, upon an agreement or understanding that that person or  
30 someone else will receive something of value in the event of a certain outcome;  
31 "gambling" does not include

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

6 (B) playing an amusement device that

7 (i) confers only an immediate right of replay not  
 8 exchangeable for something of value other than the privilege of  
 9 immediate replay; and

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

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

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

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

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

19 (11) the officers and employees of the following boards, commissions,  
 20 and authorities:

21 (A) [REPEALED

22 (B)] Alaska Permanent Fund Corporation;

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

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

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

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

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

28 **(G) Alaska Gaming Commission;**

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

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

31 \* **Sec. 9.** AS 05.15.690(9) is repealed.

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

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