

1 IN THE SENATE

BY FAHRENKAMP

2 SENATE BILL NO. 273

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing gambling enterprises; and provid-  
7 ing for an effective date."

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

9 \* Section 1. POLICY. Gambling enterprises licensed by the state or by  
10 municipalities offer a substantial contribution to the welfare and pros-  
11 parity of the state and an opportunity to offset declining revenue. The  
12 success of the limited gambling operations authorized by this Act is depen-  
13 dent upon strict regulation and control of all persons, locations, prac-  
14 tices, and activities related to operation of licensed gambling enter-  
15 prises. Strict regulation and control will ensure that gambling is con-  
16 ducted honestly and free from criminal and corrupt persons, practices, and  
17 influences. All premises where gambling is conducted must be licensed by  
18 either the state or a municipality. To further local control over the  
19 conduct of gambling, residents of each municipality must vote to approve  
20 gambling before it can occur in the municipality.

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

22 CHAPTER 16. LEGALIZED GAMBLING.

23 Sec. 05.16.010. GAMBLING PERMITTED. (a) Gambling is permitted  
24 within the limitations of this section.

25 (b) A person under 21 years of age may not gamble.

26 (c) Only numbers wheels and card and dice games may be operated  
27 for the purposes of gambling.

28 (d) A person licensed to operate a gambling enterprise or an  
29 employee of a gambling enterprise may not extend credit to a patron of

1 a gambling enterprise.

2 (e) A person may not receive a license to operate a gambling  
3 enterprise or be employed by a gambling enterprise if that person has  
4 been convicted of a felony or an offense defined in AS 11.66.200 -  
5 11.66.280 or a comparable provision of state or federal law.

6 (f) Only a person who has successfully completed a course of  
7 study in a curriculum for employees of a gambling enterprise at a  
8 school licensed by a state where gambling is legal may be employed by  
9 a gambling enterprise.

10 (g) An employee of a gambling enterprise may not gamble while on  
11 duty for the gambling enterprise.

12 (h) Within the boundaries of a municipality, gambling may be  
13 conducted under AS 29.35.600 - 29.35.690.

14 (i) Outside the boundaries of municipalities, gambling may be  
15 conducted under the terms of licenses issued by the department under  
16 this chapter.

17 Sec. 05.16.020. LICENSES ISSUED BY DEPARTMENT. (a) The depart-  
18 ment may issue licenses for gambling enterprises at locations outside  
19 the boundaries of municipalities, on vessels of the Alaska Marine  
20 Highway System, and on tour ships within the state.

21 (b) A license for a gambling enterprise entitles the licensee to  
22 conduct gambling at the premises specified in the license and under  
23 the terms specified in the license.

24 (c) At the time of applying to the department for the license,  
25 an applicant shall notify the municipalities within 10 miles of the  
26 location of the proposed gambling enterprise that the applicant has  
27 applied for the license. A municipality may protest the issuance of  
28 the license on the grounds that

29 (1) the applicant lacks the qualifications to operate a

1 gambling enterprise;

2 (2) the applicant has a history of gambling violations or  
3 complaints against gambling enterprises operated by the applicant; or

4 (3) the issuance of the license

5 (A) would cause economic harm to the municipality or  
6 adversely affect gambling enterprises licensed by the municipal-  
7 ity; or

8 (B) is not in the public interest.

9 (d) An applicant for a license for a gambling enterprise shall  
10 notify the law enforcement agency having jurisdiction over the loca-  
11 tion of the proposed gambling enterprise at the time of applying to  
12 the department for the license. The law enforcement agency may com-  
13 ment on the application for the license.

14 (e) Before issuing a license for a gambling enterprise, the  
15 department shall hold public hearings in the vicinity of the proposed  
16 gambling enterprise.

17 (f) The department shall consider comments received from the  
18 public, municipalities, and law enforcement agencies in issuing a  
19 license. If a municipality protests an application for a license  
20 under (c) of this section, the department shall address each issue  
21 raised by the municipality in a finding and shall determine whether  
22 the application should be rejected or the license should be restricted  
23 in order to resolve the issues set out in the protest.

24 (g) The department shall consider the economic effect of issuing  
25 a license for a gambling enterprise on gambling enterprises licensed  
26 by municipalities. The department may not issue a license for a  
27 gambling enterprise if the issuance of the license would have a sig-  
28 nificant and adverse economic effect upon gambling enterprises  
29 licensed by adjacent municipalities.

1           (h) The department may place restrictions on the license, in-  
2 cluding restrictions relating to

- 3                   (1) the games permitted under the license;  
4                   (2) the dates and hours of operation;  
5                   (3) prohibitions against alcoholic beverages on the prem-  
6 ises; and  
7                   (4) other matters necessary to protect the public health,  
8 safety, and welfare.

9           Sec. 05.16.030. REGULATIONS. The department shall adopt regu-  
10 lations under the Administrative Procedure Act (AS 44.62) that are  
11 necessary to carry out this chapter, including regulations governing

12                   (1) the issuance, renewal, suspension, and revocation of  
13 licenses;

14                   (2) the immediate suspension or revocation of licenses if  
15 this chapter or regulations adopted under this chapter are violated;

16                   (3) requirements for detailed, sworn financial reports of  
17 gambling enterprises including detailed statements of receipts and  
18 payments;

19                   (4) the fingerprinting and investigation of licensees and  
20 their employees;

21                   (5) exclusion of a person convicted of a felony, or of a  
22 state, municipal, or federal gambling offense from participation as a  
23 licensee, an employee, or a patron of a gambling enterprise;

24                   (6) the method and manner of conducting gambling and the  
25 equipment that may be used;

26                   (7) the method of accounting for receipts and disbursements  
27 including procedures to determine net proceeds;

28                   (8) a schedule of fees for licenses;

29                   (9) procedures for payment of fees and proceeds;

1 (10) the maximum amount of a wager permitted in games li-  
2 censed under this chapter;

3 (11) disclosure of the identity of persons having a finan-  
4 cial interest in a gambling enterprise and the nature of the interest;

5 (12) establishment of allowable rates of return on invest-  
6 ment for gambling enterprises;

7 (13) procedures for resolution of disputes between patrons  
8 of gambling enterprises and licensees;

9 (14) the amount that a licensee shall post as a bond to  
10 ensure payment of fees, taxes, and net proceeds;

11 (15) the form and content of reports by municipalities on  
12 their administration and regulation of gambling.

13 Sec. 05.16.040. EXAMINATION OF RECORDS. The department shall  
14 audit the books and records of a licensee. The department may require  
15 the licensee to pay the reasonable cost of the audit. The department  
16 may issue subpoenas for the attendance of witnesses and the production  
17 of books, records, and other documents.

18 Sec. 05.16.050. REPORTS BY LICENSEE. The licensee shall file  
19 with the department each month an itemized statement showing all  
20 income, expenses, and disbursement of proceeds of a gambling enter-  
21 prise during the previous month.

22 Sec. 05.16.060. PROCEEDS. (a) A person licensed to operate a  
23 gambling enterprise shall pay 50 percent of the net proceeds to the  
24 department.

25 (b) The commissioner of administration shall separately account  
26 for money received under this section and AS 29.35.620(a) that the  
27 department deposits in the general fund. The annual estimated balance  
28 in the account may be used by the legislature to make appropriations  
29 to the department to administer this chapter except that one-half

1 percent of the annual estimated balance in the account may be used by  
2 the legislature to make appropriations for the treatment and counsel-  
3 ing of persons identified as compulsive gamblers.

4 Sec. 05.16.070. LICENSED GAMBLING ON STATE FERRIES. (a) The  
5 department shall issue a license for a gambling enterprise on vessels  
6 of the Alaska Marine Highway System if the commissioner of transporta-  
7 tion and public facilities applies for a license.

8 (b) Notwithstanding AS 05.16.060, the proceeds of a gambling  
9 enterprise licensed under this section shall be paid into the general  
10 fund. The commissioner of administration shall separately account for  
11 money that the Department of Transportation and Public Facilities  
12 deposits in the general fund under this subsection. The annual es-  
13 timated balance in the account may be used by the legislature to make  
14 appropriations to the Department of Transportation and Public Facil-  
15 ities to carry out the purposes of this section.

16 Sec. 05.16.080. COOPERATION WITH MUNICIPALITIES. The department  
17 shall cooperate with municipalities in the administration and regu-  
18 lation of gambling within municipalities.

19 Sec. 05.16.090. ANNUAL REPORT. The department shall make a  
20 report to the governor and the legislature by March 1 of each year on  
21 its administration of this chapter, the regulation of gambling by  
22 municipalities, and its recommendations for legislation necessary for  
23 the regulation of gambling in this state.

24 Sec. 05.16.900. DEFINITIONS. In this chapter

25 (1) "department" means the Department of Revenue;

26 (2) "gambling" means that a person stakes or risks some-  
27 thing of value upon the outcome of a game or a future contingent event  
28 not under the person's control or influence, upon the agreement or  
29 understanding that the person or someone else will receive something

1 of value in the event of a certain outcome; "gambling" does not in-  
2 clude activities authorized under AS 05.15;

3 (3) "gambling enterprise" means a business licensed to  
4 conduct gambling;

5 (4) "tour ship" means a ship engaged in interstate or  
6 international transportation of passengers for hire.

7 \* Sec. 3. AS 11.66.280(2) is amended to read:

8 (2) "gambling" means that a person stakes or risks some-  
9 thing of value upon the outcome of a contest of chance or a future  
10 contingent event not under the person's control or influence, upon an  
11 agreement or understanding that that person or someone else will  
12 receive something of value in the event of a certain outcome; "gam-  
13 bling" does not include

14 (A) bona fide business transactions valid under the  
15 law of contracts for the purchase or sale at a future date of  
16 securities or commodities and agreements to compensate for loss  
17 caused by the happening of chance, including contracts of indem-  
18 nity or guaranty and life, health, or accident insurance; or

19 (B) playing an amusement device that

20 (i) confers only an immediate right of replay not  
21 exchangeable for something of value other than the privilege  
22 of immediate replay; and

23 (ii) does not contain a method or device by which  
24 the privilege of immediate replay may be cancelled or re-  
25 voked;

26 (C) an activity authorized by the commissioner of  
27 revenue under AS 05.15 or AS 05.16; or

28 (D) an activity licensed under AS 29.35.600 - 29.35.-

29 690:

1 \* Sec. 4. AS 11.66.280(4) is amended to read:

2 (4) "gambling enterprise" means a gambling business which

3 (A) includes five or more persons who conduct, fi-  
4 nance, manage, supervise, direct, or own all or part of the  
5 business;

6 (B) has been or remains in substantially continuous  
7 operation for a period in excess of 30 days or has a gross income  
8 of \$2,000 or more in any single day; [AND]

9 (C) is not a municipality or a qualified organization  
10 under AS 05.15.210 [AS 05.15.210(15)], except that, for purposes  
11 of this paragraph, no application for a license under AS 05.15  
12 [AS 05.15.210(15)] is required to be considered a qualified  
13 organization; and

14 (D) is not licensed under AS 05.16 or AS 29.35.600 -  
15 29.35.690;

16 \* Sec. 5. AS 29.10.200 is amended by adding a new paragraph to read:

17 (49) AS 29.35.600 - 29.35.690 (gambling).

18 \* Sec. 6. AS 29.35 is amended by adding new sections to read:

19 ARTICLE 9. GAMBLING WITHIN MUNICIPALITIES.

20 Sec. 29.35.600. AUTHORIZATION. Subject to AS 05.16.010, a  
21 municipality may operate or license a person in the municipality to  
22 operate a gambling enterprise if

23 (1) the gambling enterprise enhances the historic character  
24 of the municipality;

25 (2) the municipality adopts an ordinance regulating gam-  
26 bling enterprises in the municipality; and

27 (3) the ordinance is ratified by a majority of the voters  
28 of the municipality.

29 Sec. 29.35.610. REGULATION OF GAMBLING. (a) The municipal

1 ordinance providing for licensing and regulation of gambling enter-  
2 prises within the municipality shall

3 (1) establish a commission responsible for municipal li-  
4 censing and regulation of gambling enterprises consisting of at least  
5 seven members including

6 (A) a member of the governing body;  
7 (B) a person experienced in law enforcement;  
8 (C) a person trained in accounting or bookkeeping;  
9 (D) a person active in the tourism industry;  
10 (E) a historian or other person familiar with the  
11 history of the municipality; and  
12 (F) two public members;

13 (2) establish qualifications for persons employed by the  
14 commission;

15 (3) provide for issuance, renewal, suspension, and revoca-  
16 tion of licenses for gambling enterprises and for the immediate sus-  
17 pension or revocation of a license for a violation of AS 05.16.010,  
18 AS 29.35.600 - 29.35.690, or a municipal gambling ordinance;

19 (4) establish

20 (A) dates and hours of operation for gambling enter-  
21 prises;

22 (B) locations in the municipality where gambling  
23 enterprises may be located;

24 (C) the games permitted;

25 (D) the number of gaming tables permitted on the  
26 premises of a gambling enterprise;

27 (E) the maximum amount of wagers permitted in games;  
28 (F) a schedule of fees for licenses;

29 (G) allowable rates of return on investment for

1 gambling enterprises;

2 (H) auditing procedures for gambling enterprises;

3 (5) provide for the distribution of gambling proceeds  
4 including the amounts or proportions allocated to the gambling enter-  
5 prise and to winners;

6 (6) require disclosure of the identity of persons having a  
7 financial interest in a gambling enterprise and the nature of the  
8 interest;

9 (7) require detailed financial records of gambling enter-  
10 prises.

11 (b) The municipality may operate or license a person in the  
12 municipality to operate only numbers wheels and card and dice games  
13 for the purposes of gambling.

14 (c) The municipality may establish by ordinance whether alco-  
15 holic beverages may be sold on the premises of a gambling enterprise.

16 (d) A member of a commission responsible for municipal licensing  
17 and regulation of gambling enterprises and employees of the commission  
18 may not participate in or have a financial interest in a gambling  
19 enterprise.

20 (e) The municipality shall make a report to the Department of  
21 Revenue by February 1 of each year on its administration and regula-  
22 tion of gambling during the preceding year in the form prescribed by  
23 the department.

24 Sec. 29.35.620. PROCEEDS. (a) A municipality that operates or  
25 licenses a person to operate a gambling enterprise shall collect three  
26 and one-half percent of the gross proceeds from a gambling enterprise  
27 and pay that amount to the Department of Revenue for deposit in the  
28 general fund.

29 (b) If the municipality operates a gambling enterprise, the

1           municipality shall receive all of the proceeds from the gambling  
2           enterprise, except the amount paid to the Department of Revenue under  
3           (a) of this section.

4           (c) If the municipality licenses a person in the municipality to  
5           operate a gambling enterprise, the municipality and the licensee may  
6           divide the proceeds from the gambling enterprise under the terms of  
7           the license after subtracting the amount paid to the Department of  
8           Revenue under (a) of this section.

9           Sec. 29.35.630. REVENUE DERIVED FROM GAMBLING ENTERPRISES. The  
10          fees, proceeds, and other revenue that a municipality receives from  
11          gambling enterprises may be dedicated to public purposes as the munic-  
12          ipality may determine by ordinance.

13          Sec. 29.35.640. APPLICATION. AS 29.35.600 - 29.35.690 apply to  
14          home rule and general law municipalities.

15          Sec. 29.35.690. DEFINITION. In AS 29.35.600 - 29.35.690 "gam-  
16          bling" and "gambling enterprise" have the meanings given in AS 05.16.-  
17          900.

18          \* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).