

Introduced: 4/5/89  
Referred: State Affairs, Judiciary  
and Finance

6-0940H

1 IN THE SENATE

BY POURCHOT BY REQUEST

2

SENATE BILL NO. 263

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to video gaming devices and their  
7 distributors, classifying video gaming devices as  
8 coin-operated devices for purposes of regulation and  
9 taxation, and exempting them from the definition of  
10 gambling devices; to taxes imposed on and regulation  
11 of coin-operated devices; and providing for an effective  
12 date."

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

14 \* Section 1. AS 11.66.280(2) is amended to read:

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

21 (A) bona fide business transactions valid under the  
22 law of contracts for the purchase or sale at a future date of  
23 securities or commodities and agreements to compensate for loss  
24 caused by the happening of chance, including contracts of indemnity or guaranty and life, health, or accident insurance; [OR]

26 (B) playing an amusement device that

27 (i) confers only an immediate right of replay not  
28 exchangeable for something of value other than the privilege  
29 of immediate replay; and

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

4 (C) an activity authorized by the commissioner of  
5 revenue under AS 05.15; or

6 (D) a video gaming device authorized under AS 43.35;

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

8 (3) "gambling device" means any device, machine, parapher-  
9 nalia, or equipment that is used or usable in the playing phases of  
10 unlawful gambling, whether it consists of gambling between persons or  
11 gambling by a person involving the playing of a machine; "gambling  
12 device" does not include

13 (A) lottery tickets, policy slips, or other items used  
14 in the playing phases of lottery or policy schemes; [OR]

15 (B) an amusement device as described in (2)(B) of this  
16 section; or

17 (C) a video gaming device authorized under AS 43.35;

18 \* Sec. 3. AS 43.35 is amended by adding a new section to read:

19 Sec. 43.35.015. TAX ON VIDEO GAMING DEVICE. (a) In addition to  
20 the tax payable under AS 43.35.010, the holder of a video gaming  
21 device license shall, not later than 15 days after the end of the  
22 calendar quarter,

23 (1) pay to the department 25 percent of the net machine  
24 income earned in the previous calendar quarter from a video gaming  
25 device; and

26 (2) file a statement with the department showing the total  
27 net income earned in the previous calendar quarter from video gaming  
28 devices authorized under this section, and the amount due the depart-  
29 ment based on net income.

1 (b) A person who fails to pay fees or file a statement as re-  
2 quired under (a) of this section is subject to a civil penalty of not  
3 more than \$1,000 for each violation. Each day a person fails to  
4 comply constitutes a separate violation. The civil penalty may be  
5 imposed by the department in an administrative proceeding or by a  
6 court.

7 (c) In this section "net machine income" means money received  
8 from a video gaming device less money paid out in cash for credits  
9 earned from the video gaming device.

10 \* Sec. 4. AS 43.35.030 is amended by adding a new subsection to read:

11 (b) The provisions of (a) of this section do not apply to a  
12 person who is licensed as a distributor of video games under AS 43.-  
13 35.200.

14 \* Sec. 5. AS 43.35.050 is repealed and reenacted to read:

15 Sec. 43.35.050. DISTRIBUTION OF TAX. (a) Except as provided in  
16 (b) of this section, subject to an appropriation made for the purpose,  
17 the department shall pay one-half of the proceeds of the gross reve-  
18 nues from the tax provided by this chapter to municipalities in the  
19 proportion that the revenue was earned within them. The balance shall  
20 be retained by the state and deposited in the general fund.

21 (b) The amount of gross revenue shared with municipalities under  
22 (a) of this section does not include

23 (1) revenue from fees paid for distributor's licenses and  
24 permits;

25 (2) revenue from penalties;

26 (3) revenue attributable by the department to expenses  
27 incurred in the collection of the tax; and

28 (4) revenue from the tax on video gaming devices under  
29 AS 43.35.015(a).

1 \* Sec. 6. AS 43.35.090(3) is amended to read:

2 (3) "coin-operated device class 3" means

3 (A) a slot machine or other apparatus or device that  
4 [WHICH] operates by means of insertion of a coin, token, or  
5 similar object and that [WHICH], by strict dependence upon the  
6 element of chance, may deliver or may entitle the person playing  
7 or operating the machine to receive cash, premiums, merchandise,  
8 or tokens; the term includes a device or apparatus that is other-  
9 wise a coin-operated device class 2 [A DEVICE OR APPARATUS OTHER-  
10 WISE FALLING WITHIN THE CLASSIFICATION OF (2) OF THIS SECTION,  
11 THOUGH NOT STRICTLY DEPENDENT UPON THE ELEMENT OF CHANCE, IS  
12 TAXED ACCORDING TO THE RATE APPLICABLE TO SLOT MACHINES] if the  
13 device or apparatus itself delivers cash directly to the person  
14 playing or operating it; and

15 (B) a video gaming device;

16 \* Sec. 7. AS 43.35.090 is amended by adding a new paragraph to read:

17 (5) "video gaming device" means an electronic machine that  
18 uses a video screen or display and microprocessors to play or simulate  
19 the play of the game of draw poker or of the game of keno, and that  
20 upon insertion of money allows a user by skill or chance to receive  
21 free games or credits that may be redeemed for cash, but does not  
22 include a machine that directly deposits money to the user.

23 \* Sec. 8. AS 43.35 is amended by adding new sections to read:

24 ARTICLE 3. VIDEO GAMING DEVICES.

25 Sec. 43.35.200. DISTRIBUTOR OF VIDEO GAMING DEVICES TO BE LI-  
26 CENSED. (a) A person who distributes video gaming devices may not  
27 distribute a video gaming device in this state without a valid video  
28 gaming distributor's license issued by the department. To remain  
29 valid, a license must be renewed annually on or before a date set by

1 the department.

2 (b) An applicant for a license or renewal of a license shall pay  
3 an annual fee of \$500.

4 (c) The department shall refuse to issue a license to a person  
5 who distributes video gaming devices if the person has not been a  
6 resident of the state for one year immediately preceding the person's  
7 application or reapplication for a license.

8 (d) The department

9 (1) shall refuse to issue a license to a person who dis-  
10 tributes video gaming devices, or shall suspend or revoke a license,  
11 if the person

12 (A) has been convicted of a felony;

13 (B) has been convicted of a violation of AS 11.66.-  
14 200 - 11.66.280 or another law or ordinance with substantially  
15 similar elements;

16 (2) may refuse to issue a license to a person who distrib-  
17 utes video gaming devices, or may suspend or revoke a license if the  
18 person fails to comply with a provision of this chapter or of a regu-  
19 lation adopted under it;

20 (3) may require an applicant for a license or renewal of a  
21 license and, if the applicant is a corporation, each shareholder and  
22 employee of the corporation, to file an affidavit that the distributor

23 (A) is a citizen of the United States;

24 (B) has been a bona fide resident of the state for at  
25 least one year; and

26 (C) has never been convicted of a crime identified in  
27 (1) of this subsection.

28 (e) A person who is denied a license under (d) of this section,  
29 or whose license is suspended or revoked under (d) of this section,

1 has the right to a hearing on the department's decision and may appeal  
2 the denial, suspension, or revocation to the superior court.

3 (f) In this section "license" means a video gaming distributor's  
4 license.

5 Sec. 43.35.210. INSTALLATION OF VIDEO GAMING DEVICES. A person  
6 licensed under AS 43.35.200 may install video gaming devices only in  
7 premises that sell alcoholic beverages and that hold under AS 04.11:

- 8 (1) a beverage dispensary license under AS 04.11.090;  
9 (2) a duplicate beverage dispensary license for additional  
10 rooms under AS 04.11.090(e);  
11 (3) a club license under AS 04.11.110;  
12 (4) a common carrier dispensary license under AS 04.11.180;  
13 or  
14 (5) a pub license under AS 04.11.220.

15 \* Sec. 9. This Act takes effect July 1, 1989.