

Introduced: 2/6/90  
Referred: SA, Judiciary and Finance

6-0940J

BY SEN. POURCHOT BY REQUEST

1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 263  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Gaming Commission,  
7 authorizing the commission to regulate video gaming  
8 devices and persons who manufacture, assemble, pro-  
9 duce, distribute, and operate them, and exempting  
10 video gaming devices from the definition of gambling  
11 devices; relating to state laws applicable to regu-  
12 lation of gambling, state criminal laws defining  
13 criminal mischief, municipal regulation and taxation  
14 of video gaming devices, and taxes imposed on and  
15 regulation of video gaming and coin-operated devices;  
16 and providing for an effective date."

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

18 \* Section 1. AS 05 is amended by adding a new chapter to read:

19 CHAPTER 45. ALASKA GAMING COMMISSION.

20 ARTICLE 1. ESTABLISHMENT AND OPERATION OF COMMISSION.

21 Sec. 05.45.010. ALASKA GAMING COMMISSION. (a) The Alaska  
22 Gaming Commission is established in the Department of Commerce and  
23 Economic Development. The commission is composed of five members.  
24 Four members shall be appointed by the governor, subject to confirma-  
25 tion by the legislature. The fifth member of the commission is the  
26 commissioner of commerce and economic development or the commis-  
27 sioner's designee.

28 (b) Each member of the commission shall at the time of the  
29 member's appointment be a resident of the state.

1 (c) Except for the commissioner of commerce and economic devel-  
2 opment or the commissioner's designee, a person may not serve as a  
3 member of the commission if that person has been convicted of

4 (1) a felony; or

5 (2) an offense under AS 05.15, AS 11.66.200 - 11.66.280, or  
6 a comparable provision of municipal, state, or federal law.

7 (d) Except for the commissioner of commerce and economic devel-  
8 opment or the commissioner's designee, a person may not serve as a  
9 member of the commission until the investigation required under  
10 AS 18.65.080(b) is completed.

11 (e) The commission shall elect a chair from its membership.

12 (f) Three members of the commission constitute a quorum for the  
13 transaction of business.

14 Sec. 05.45.020. TERM OF OFFICE. Members of the commission  
15 appointed by the governor serve staggered terms of three years. A  
16 vacancy is filled by appointment for the unexpired term. A member of  
17 the commission holds office until a successor is appointed and qual-  
18 ifies.

19 Sec. 05.45.030. REMOVAL AND SUSPENSION OF MEMBERS. (a) Except  
20 for the commissioner of commerce and economic development or the  
21 commissioner's designee, the governor may remove a member for cause,  
22 including incompetence, neglect of duty, or misconduct in office. A  
23 member being removed for cause shall be given a copy of the charges  
24 and afforded an opportunity to publicly present a defense in person or  
25 by counsel upon not less than 10 days' notice. If a member is removed  
26 for cause, the governor shall file with the lieutenant governor a  
27 complete statement of all charges made against the member and the  
28 governor's findings based on the charges, together with a complete  
29 record of the proceedings.

1 (b) The governor may immediately suspend a member for a viola-  
2 tion of law or for misconduct in office pending removal from office  
3 under (a) of this section.

4 Sec. 05.45.040. COMPENSATION AND PER DIEM. Except for the  
5 commissioner of commerce and economic development or the commis-  
6 sioner's designee, members of the commission do not receive a salary  
7 for their service on the commission but are entitled to per diem and  
8 travel expenses authorized for state boards and commissions under  
9 AS 39.20.180.

10 Sec. 05.45.050. DUTIES AND POWERS OF THE COMMISSION. (a) The  
11 commission shall

12 (1) license, regulate, and supervise video gaming under  
13 this chapter;

14 (2) as to the regulation and supervision of video gaming  
15 devices, have and exercise all duties and powers that the Department  
16 of Revenue may exercise under AS 43 to levy, collect, and enforce the  
17 payment of taxes and fees imposed by this chapter;

18 (3) adopt regulations establishing the minimum machine  
19 specifications for video gaming devices that may be used in the state;

20 (4) hire staff as needed to enforce and administer this  
21 chapter; and

22 (5) adopt regulations necessary to carry out the provisions  
23 of this chapter.

24 (b) The commission may

25 (1) issue subpoenas to compel witnesses to appear before  
26 it;

27 (2) compel the production of documents showing the receipts  
28 and disbursements of a person licensed under AS 05.45.200 or 05.-  
29 45.210;

1           (3) appoint a hearing officer to conduct a hearing required  
2 by this chapter or by a regulation adopted under it.

3           Sec. 05.45.060. EMPLOYEES OF THE COMMISSION. Employees of the  
4 commission are in the partially exempt service under AS 39.25.120.

5           Sec. 05.45.070. ENFORCEMENT OF REGULATIONS. The attorney  
6 general shall enforce the regulations of the commission.

7           Sec. 05.45.080. RECORDS OF THE COMMISSION. All records of the  
8 commission are public records and subject to public inspection.

9           Sec. 05.45.090. ADMINISTRATIVE PROCEDURE ACT. The operations of  
10 the commission are subject to the Administrative Procedure Act  
11 (AS 44.62).

12          Sec. 05.45.100. CONFLICT OF INTEREST ACT. The commission is  
13 subject to AS 39.50 (conflict of interest).

14          ARTICLE 2. REGULATION OF PERSONS ENGAGED IN VIDEO GAMING.

15          Sec. 05.45.200. DISTRIBUTOR'S LICENSE. (a) A person may not  
16 manufacture, assemble, produce, or distribute a video gaming device in  
17 this state without a valid video gaming distributor's license issued  
18 by the commission. To remain valid, a distributor's license must be  
19 renewed annually on or before a date set by the commission.

20                 (b) An applicant for a license or renewal of a license under (a)  
21 of this section shall pay to the commission an annual fee of \$1,000.

22          Sec. 05.45.210. PREMISES OPERATOR'S LICENSE. (a) A person may  
23 not install or allow another to use a video gaming device without a  
24 valid video gaming premises operator's license issued by the commis-  
25 sion. The commission shall refuse to issue a gaming premises opera-  
26 tor's license to a person unless the person holds a license described  
27 in AS 05.45.230. To remain valid, a premises operator's license must  
28 be renewed annually on or before a date set by the commission.

29                 (b) An applicant for a license or renewal of a license under (a)

1 of this section shall pay to the commission an annual fee of \$100.

2 Sec. 05.45.220. LICENSING PROCEDURE. (a) The commission

3 (1) shall refuse to issue a license to a person under  
4 AS 05.45.200 or 05.45.210 if the person has been convicted of

5 (A) a felony; or

6 (B) an offense under AS 05.15, AS 11.66.200 - 11.-  
7 66.280, or a comparable provision of municipal, state, or federal  
8 law;

9 (2) may refuse to issue a license to a person under AS 05.-  
10 45.200 or 05.45.210, if the person fails to comply with a provision of  
11 this chapter or of a regulation adopted under it;

12 (3) may require an applicant for a license or renewal of a  
13 license issued under AS 05.45.200 or 05.45.210 and, if the applicant  
14 is a corporation, each shareholder and employee of the corporation, to  
15 file an affidavit that the applicant has never been convicted of a  
16 crime identified in (1) of this subsection.

17 (b) A person who is denied a license under (a) of this section  
18 has the right to a hearing on the commission's decision and may appeal  
19 the denial to the superior court.

20 Sec. 05.45.230. INSTALLATION OF VIDEO GAMING DEVICES. (a) A  
21 person licensed under AS 05.45.210 may install or allow another to use  
22 video gaming devices only in premises that sell alcoholic beverages  
23 and for which has been issued

24 (1) a beverage dispensary license under AS 04.11.090;

25 (2) a duplicate beverage dispensary license for additional  
26 rooms under AS 04.11.090(e);

27 (3) a club license under AS 04.11.110;

28 (4) a common carrier dispensary license under AS 04.11.180;

29 or

1 (5) a pub license under AS 04.11.220.

2 (b) A person may not install more than 20 video gaming devices  
3 on a licensed premises.

4 ARTICLE 3. REGULATION OF VIDEO GAMING.

5 Sec. 05.45.300. TESTING OF PROTOTYPE VIDEO GAMING DEVICES. (a)  
6 Before a video gaming device is sold or distributed for use in the  
7 state, the commission shall test and approve a prototype of the device  
8 to ascertain whether a device manufactured to the specifications of  
9 the prototype meets minimum machine specification standards.

10 (b) The commission may contract with another state to fulfill  
11 the requirements of (a) of this section.

12 (c) The commission shall require the distributor seeking the  
13 examination and approval of a new video gaming device to pay the  
14 anticipated actual costs of the examination in advance and, after the  
15 completion of the examination, shall refund overpayments or charge and  
16 collect amounts sufficient to reimburse the commission for under-  
17 payments of actual costs.

18 Sec. 05.45.310. INSPECTION. The commission may provide for  
19 regular inspection of video gaming devices that are approved for  
20 installation and use under this chapter. Regular inspection may  
21 include a review of the audit trail of the video gaming device to  
22 ensure compliance with the payout requirements of AS 05.45.340. The  
23 commission may contract with the Alcoholic Beverage Control Board to  
24 conduct regular inspections authorized by this section.

25 Sec. 05.45.320. REGULATION OF PLAY. (a) A person who has not  
26 reached the age of 21 years may not use a video gaming device.

27 (b) The operator of premises in which video gaming devices have  
28 been installed may allow use of the video gaming devices only during  
29 hours when a person may sell alcoholic beverages on the premises under

1 AS 04.16.010 and AS 04.21.010.

2 Sec. 05.45.330. LIMITATION OF WAGER. The maximum amount that  
3 may be wagered on a game that is played or simulated by a video gaming  
4 device is \$2. A video gaming device may not be programmed to accept a  
5 wager in an amount that exceeds the maximum amount authorized by this  
6 section.

7 Sec. 05.45.340. PAYOUT REQUIREMENTS. (a) Each video gaming  
8 device shall pay out not less than 80 percent of the value of the  
9 amount played during the useful life of the device. Each video gaming  
10 device must have an electronic accounting device that the commission  
11 may use to verify the payout percentage.

12 (b) Based on the play of a video gaming device, the video gaming  
13 device shall provide the user of the device who is successful a maxi-  
14 mum cash payout of \$100 per game.

15 ARTICLE 4. ENFORCEMENT.

16 Sec. 05.45.400. LICENSE TERMINATION. (a) The commission shall  
17 suspend or revoke a license issued under AS 05.45.200 or 05.45.210 if  
18 the person holding the license has been convicted of

19 (1) a felony; or

20 (2) an offense under AS 05.15, AS 11.66.200 - 11.66.280, or  
21 a comparable provision of municipal, state, or federal law.

22 (b) The commission may suspend or revoke a license issued under  
23 AS 05.45.200 or 05.45.210 if the person holding the license fails to  
24 comply with a provision of this chapter or of a regulation adopted  
25 under it.

26 (c) A person whose license is suspended or revoked under this  
27 section has the right to notice of and a hearing on the commission's  
28 decision and may appeal the suspension or revocation to the superior  
29 court.

1 ARTICLE 5. TAXES AND FEES.

2 Sec. 05.45.500. TAXES. (a) A person who maintains a video  
3 gaming device for use or permits the use of a video gaming device on  
4 premises under the person's control shall first pay to the commission  
5 a tax of \$200 a year for each video gaming device.

6 (b) In addition to the tax payable under (a) of this section,  
7 the holder of a video gaming device premises operator's license under  
8 AS 05.45.210 shall, not later than 15 days after the end of the calen-  
9 dar quarter,

10 (1) pay to the commission 15 percent of the net machine  
11 income earned in the previous calendar quarter from a video gaming  
12 device; and

13 (2) file a statement with the commission showing the total  
14 net machine income earned in the previous calendar quarter from the  
15 licensee's video gaming devices and the amount due the department  
16 based on the net machine income.

17 (c) A person who fails to pay the taxes and fees or file a  
18 statement required under this section is subject to a civil penalty of  
19 not more than \$1,000 for each violation. Each day a person fails to  
20 comply constitutes a separate violation. The civil penalty may be  
21 imposed by the commission in an administrative proceeding or by a  
22 court.

23 (d) In this section, "net machine income" means money received  
24 from a video gaming device less money paid out in cash for credits  
25 earned from the video gaming device.

26 Sec. 05.45.510. DISTRIBUTION OF REVENUE. Subject to an appro-  
27 priation made for the purpose, the commission shall pay one-third of  
28 the proceeds of the taxes collected under AS 05.45.500(a) and (b) to  
29 municipalities in the proportion that the revenue was earned within

1 them.

2 ARTICLE 6. GENERAL PROVISIONS.

3 Sec. 05.45.900. DEFINITIONS. In this chapter,

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

5 (2) "video gaming device"

6 (A) means an electronic machine that uses a video  
7 screen or display and microprocessors to play or simulate the  
8 play of the game of draw poker or the game of keno, as defined by  
9 regulation of the commission, or of another game authorized by  
10 the commission, and that upon insertion of money allows a user by  
11 skill or chance to receive

12 (i) free games; or

13 (ii) credits that may be redeemed for cash;

14 (B) does not include a machine that directly dispenses  
15 coins, cash, tokens, or anything else of value.

16 \* Sec. 2. AS 05.15.060 is amended to read:

17 Sec. 05.15.060. REGULATIONS. The department shall adopt regu-  
18 lations under the Administrative Procedure Act (AS 44.62) necessary to  
19 carry out this chapter covering, but not limited to,

20 (1) the issuance, renewal, and revocation of permits and  
21 licenses;

22 (2) a method of ascertaining net proceeds, the determina-  
23 tion of items of expense that may be incurred or paid, and the limita-  
24 tion of the amount of the items of expense to prevent the proceeds  
25 from the activity permitted from being diverted to noncharitable,  
26 noneducational, nonreligious, or profit-making organizations, indi-  
27 viduals, or groups;

28 (3) the immediate revocation of permits and licenses au-  
29 thorized under this chapter if this chapter or regulations adopted

1 under it are violated;

2 (4) the requiring of detailed, sworn, financial reports of  
3 operations from permittees and licensees including detailed statements  
4 of receipts and payments;

5 (5) the investigation of permittees, licensees, and their  
6 employees, including the fingerprinting of those permittees, licens-  
7 ees, and employees whom the commissioner considers it advisable to  
8 fingerprint;

9 (6) exclusion from participation as a permittee, licensee,  
10 or employee of a permittee or licensee, of a person

11 (A) convicted of, in prison for, or on parole for a  
12 felony within the preceding five years, or convicted of a crime  
13 involving theft or dishonesty or of a violation of a municipal,  
14 state, or federal gambling law; or

15 (B) whose video gaming license has been suspended or  
16 revoked under AS 05.45;

17 (7) the method and manner of conducting authorized activ-  
18 ities and awarding of prizes or awards, and the equipment that may be  
19 used;

20 (8) the number of activities that may be held, operated, or  
21 conducted under a permit during a specified period; however, the  
22 department may not allow more than 14 bingo sessions a month and 35  
23 bingo games a session to be conducted under a permit;

24 (9) a method of accounting for receipts and disbursements  
25 by operators, including the keeping of records and requirements for  
26 the deposit of all receipts in a bank;

27 (10) the disposition of funds in possession of a permittee  
28 or a person, municipality, or qualified organization that possesses an  
29 operator's license at the time a permit or a license is surrendered,

1       revoked, or invalidated;

2               (11) restrictions on the participation by employees of the  
3       Department of Fish and Game in salmon classics;

4               (12) other matters the commissioner considers necessary to  
5       carry out this chapter or protect the best interest of the public.

6       \* Sec. 3. AS 05.15.122(c) is amended to read:

7               (c) The department may not issue an operator's license to an  
8       applicant if the applicant or a person employed by the applicant in a  
9       managerial or supervisory capacity

10              (1) [,] has been convicted of, in prison for, or on parole  
11       for a felony within the preceding five years, or has been convicted of  
12       a crime involving theft or dishonesty or of a violation of a municipi-  
13       pal, state, or federal gambling law; or

14              (2) has had a video gaming license suspended or revoked  
15       under AS 05.45.

16       \* Sec. 4. AS 05.15.122(d) is amended to read:

17              (d) A licensee may not employ a person in a managerial or super-  
18       visory capacity if the person

19              (1) has been convicted of, in prison for, or on parole for  
20       a felony within the preceding five years, or has been convicted of a  
21       crime involving theft or dishonesty or of a violation of a municipal,  
22       state, or federal gambling law; or

23              (2) has had a video gaming license suspended or revoked  
24       under AS 05.45.

25       \* Sec. 5. AS 05.15.140(b) is amended to read:

26              (b) In an application for a permit, a municipality or qualified  
27       organization shall disclose the name and address of each person re-  
28       sponsible for the operation of the activity and whether any person  
29       named

1 (1) has been convicted of, in prison for, or on parole for  
2 a felony within the preceding five years, or convicted of a crime  
3 involving theft or dishonesty or of a violation of a municipal, state,  
4 or federal gambling law; [OR]

5 (2) has a prohibited financial interest, as defined in  
6 regulations adopted by the commissioner, in the operation of the  
7 activity; or

8 (3) has had a video gaming license suspended or revoked  
9 under AS 05.45.

10 \* Sec. 6. AS 05.15.140(c) is amended to read:

11 (c) The commissioner may not issue a permit for an activity  
12 operated by a person who

13 (1) has been convicted of, in prison for, or on parole for  
14 a felony within the preceding five years, or has been convicted of a  
15 crime involving theft or dishonesty or of a violation of a municipal,  
16 state, or federal gambling law; or

17 (2) has had a video gaming license suspended or revoked  
18 under AS 05.45.

19 \* Sec. 7. AS 11.46.482(a) is amended to read:

20 (a) A person commits the crime of criminal mischief in the  
21 second degree if, having no right to do so or any reasonable ground to  
22 believe the person has such a right,

23 (1) with intent to damage property of another, the person  
24 damages property of another in an amount of \$500 or more;

25 (2) the person tampers with an oil or gas pipeline or  
26 supporting facility or an airplane or helicopter with reckless disre-  
27 gard for the risk of harm to or loss of the property;

28 (3) the person recklessly creates a risk of damage in an  
29 amount exceeding \$100,000 to property of another by the use of widely

1 dangerous means; [OR]

2 (4) the person drives, tows away, or takes the propelled  
3 vehicle of another and the vehicle or any other property of another is  
4 damaged or the owner incurs reasonable expenses as a result of the  
5 loss of use of the vehicle in a total amount of \$500 or more; or

6 (5) the person physically manipulates or interferes with a  
7 video gaming device regulated under AS 05.45 to alter the outcome of  
8 or payoff from a game played or whose play is simulated on the device.

9 \* Sec. 8. AS 11.66.280(2) is amended to read:

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

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

21 (B) playing an amusement device that

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

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

28 (C) an activity authorized by the commissioner of  
29 commerce and economic development under AS 05.15; or

1                    (D) using a video gaming device regulated under  
2                    AS 05.45;

3       \* Sec. 9. AS 11.66.280(3) is amended to read:

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

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

11                    (B) an amusement device as described in (2)(B) of this  
12                    section; or

13                    (C) a video gaming device regulated under AS 05.45;

14       \* Sec. 10. AS 11.81.900(b) is amended by adding a new paragraph to  
15       read:

16                    (58) "video gaming device" has the meaning given in AS 05.-  
17                    45.900.

18       \* Sec. 11. AS 18.65.080 is amended by adding a new subsection to read:

19                    (b) The Department of Public Safety shall investigate and ascer-  
20                    tain whether a person appointed by the governor to serve as a member  
21                    of the Alaska Gaming Commission has been convicted of a crime set out  
22                    in AS 05.45.010(c).

23       \* Sec. 12. AS 29.10.200 is amended by adding a new paragraph to read:

24                    (51) AS 29.35.085 (video gaming devices)

25       \* Sec. 13. AS 29.35 is amended by adding a new section to read:

26                    Sec. 29.35.085. VIDEO GAMING DEVICES. (a) A municipality may  
27                    prohibit the installation and operation of video gaming devices within  
28                    the municipality by ordinance.

29                    (b) Except as provided by (a) of this section, a municipality

1 may not license or regulate video gaming devices.

2 (c) This section applies to home rule and general law municipal-  
3 ities.

4 \* Sec. 14. AS 29.45.650(f) is amended to read:

5 (f) This subsection applies to home rule and general law munic-  
6 ipalities. A borough may not levy and collect a sales tax on

7 (1) a purchase made with

8 (A) [(1)] food coupons, food stamps, or other type of  
9 certificate issued under 7 U.S.C. 2011 - 2025 (Food Stamp Act);

10 (B) [OR (2)] food instruments, food vouchers, or  
11 other type of certificate issued under 42 U.S.C. 1786 (Special  
12 Supplemental Food Program for Women, Infants, and Children); or

13 (2) transactions involving video gaming devices. [THIS  
14 SUBSECTION APPLIES TO HOME RULE AND GENERAL LAW MUNICIPALITIES.]

15 \* Sec. 15. AS 29.45.700(d) is amended to read:

16 (d) This subsection applies to home rule and general law munic-  
17 ipalities. A city that levies and collects sales and use taxes under

18 (a) of this section may not levy and collect a sales tax on

19 (1) a purchase made with

20 (A) [(1)] food coupons, food stamps, or other types of  
21 certificates issued under 7 U.S.C. 2011 - 2025 (Food Stamp Act);

22 (B) [OR (2)] food instruments, food vouchers, or other  
23 type of certificate issued under 42 U.S.C. 1786 (Special Supple-  
24 mental Food Program for Women, Infants, and Children); or

25 (2) transactions involving video gaming devices. [THIS  
26 SUBSECTION APPLIES TO HOME RULE AND GENERAL LAW MUNICIPALITIES.]

27 \* Sec. 16. AS 29.71.800 is amended by adding a new paragraph to read:

28 (26) "video gaming device" has the meaning given in AS 05.-  
29 45.900.

1 \* Sec. 17. AS 39.25.120(c) is amended by adding a new paragraph to  
2 read:

3 (21) employees of the Alaska Gaming Commission.

4 \* Sec. 18. AS 39.50.200(b) is amended by adding a new paragraph to  
5 read:

6 (50) Alaska Gaming Commission (AS 05.45.010).

7 \* Sec. 19. AS 43.35.010(a) is amended to read:

8 (a) A person who maintains for use or permits the use on premi-  
9 ses under the person's control of a coin-operated device class 1,  
10 class 2, or class 3 shall first pay a tax as follows:

11 (1) \$48 a year for each coin-operated device class 1;

12 (2) \$120 a year for each coin-operated device class 2;

13 (3) \$240 a year for each coin-operated device class 3,  
14 other than a video gaming device.

15 \* Sec. 20. AS 43.35.030 is amended by adding a new subsection to read:

16 (b) The provisions of (a) of this section do not apply to a  
17 person who is licensed as a distributor of video games under AS 05.-  
18 45.010 - 05.45.900.

19 \* Sec. 21. AS 43.35.090(3) is amended to read:

20 (3) "coin-operated device class 3"

21 (A) means a slot machine or other apparatus or device  
22 that [WHICH] operates by means of insertion of a coin, token, or  
23 similar object and that [WHICH], by strict dependence upon the  
24 element of chance, may deliver or may entitle the person playing  
25 or operating the machine to receive cash, premiums, merchandise,  
26 or tokens; the term includes a device or apparatus that is other-  
27 wise a coin-operated device class 2 [A DEVICE OR APPARATUS OTHER-  
28 WISE FALLING WITHIN THE CLASSIFICATION OF (2) OF THIS SECTION,  
29 THOUGH NOT STRICTLY DEPENDENT UPON THE ELEMENT OF CHANCE, IS

1 TAXED ACCORDING TO THE RATE APPLICABLE TO SLOT MACHINES] if the  
2 device or apparatus itself delivers cash directly to the person  
3 playing or operating it;

4 (B) does not include a video gaming device;

5 \* Sec. 22. AS 43.35.090 is amended by adding a new paragraph to read:

6 (5) "video gaming device" has the meaning given in AS 05.-  
7 45.900.

8 \* Sec. 23. AS 44.62.330(a) is amended by adding a new paragraph to  
9 read:

10 (55) Alaska Gaming Commission (AS 05.45.010).

11 \* Sec. 24. INITIAL COMMISSION APPOINTMENTS. The governor shall make  
12 the initial appointment of members of the Alaska Gaming Commission within  
13 120 days after the effective date of this Act.

14 \* Sec. 25. This Act takes effect July 1, 1990.