CS FOR HOUSE BILL NO. 168 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/10/91
Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVE CHOQUETTE

A BILL

FOR AN ACT ENTITLED

1 "An Act licensing and regulating pull-tab vendors; authorizing sales of pull-tabs between
2 pull-tab distributors; requiring the giving of notice if a charitable gaming activity location
3 changes; amending the powers of the Department of Commerce and Economic Development
4 to revoke and suspend charitable gaming permits and licenses; restricting the ability of
5 owners, managers, or employees of vendors and persons holding charitable gaming permits
6 or licenses to purchase certain pull-tabs; authorizing the Department of Commerce and
7 Economic Development to prohibit violations of the charitable gaming laws; relating to false
8 statements in charitable gaming license and permit applications; relating to maximum
9 annual prize awards; relating to the collection of the pull-tab tax; requiring testing for
10 certain persons involved with charitable gaming; amending the minimum amounts that
11 charitable gaming operators must pay to charitable gaming permittees; authorizing licensed
12 pull-tab distributors to distribute pull-tabs to other licensed distributors; amending reporting

1 **requirements by pull-tab distributors; prohibiting charitable gaming operators from**
2 **purchasing pull-tab series from certain distributors; requiring charitable gaming permittees**
3 **to designate alternate members in charge; requiring charitable gaming regulations on pull-**
4 **tabs to meet certain standards; requiring licensing of out-of-state pull-tab manufacturers;**
5 **defining 'managerial or supervisory capacity' for charitable gaming laws; and providing for**
6 **an effective date."**

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 *** Section 1.** AS 05.15.020(a) is amended to read:

9 (a) A municipality or qualified organization may conduct an activity permitted under this
10 chapter, if the municipality or qualified organization

11 **(1) applies for a permit,** pays the appropriate permit fee, and receives an annual
12 permit issued by the department**; and**

13 **(2) designates a member in charge and at least one alternate member in**
14 **charge under AS 05.15.112 who have passed the examination required by AS 05.15.112**
15 [THE ANNUAL PERMIT FEE IS

16 (1) $20 FOR AN APPLICANT THAT DID NOT HOLD A PERMIT DURING
17 THE PRECEDING YEAR;

18 (2) $20 FOR AN APPLICANT THAT HAD GROSS RECEIPTS OF LESS
19 THAN $20,000 FROM ACTIVITIES CONDUCTED UNDER THIS CHAPTER DURING THE
20 PRECEDING YEAR;

21 (3) $50 FOR AN APPLICANT THAT HAD GROSS RECEIPTS OF $20,000 OR
22 MORE BUT NOT EXCEEDING $100,000 FROM ACTIVITIES CONDUCTED UNDER THIS
23 CHAPTER DURING THE PRECEDING YEAR; OR

24 (4) $100 FOR AN APPLICANT THAT HAD GROSS RECEIPTS EXCEEDING
25 $100,000 FROM ACTIVITIES CONDUCTED UNDER THIS CHAPTER DURING THE
26 PRECEDING YEAR].

27 *** Sec. 2.** AS 05.15.020 is amended by adding a new subsection to read:

28 (c) The annual permit fee under (a) of this section is

29 (1) $20 for an applicant that did not hold a permit during the preceding year;

1 (2) $20 for an applicant that had gross receipts of less than $20,000 from
2 activities conducted under this chapter during the preceding year;
3 (3) $50 for an applicant that had gross receipts of $20,000 or more but not
4 exceeding $100,000 from activities conducted under this chapter during the preceding year; or
5 (4) $100 for an applicant that had gross receipts exceeding $100,000 from
6 activities conducted under this chapter during the preceding year.
7 * Sec. 3. AS 05.15.030(c) is amended to read:
8 (c) If a permittee or licensee changes the location of an activity in the jurisdiction for
9 which a permit has been issued, the permittee shall notify the department and the local
10 government **at least 15 days before** [WITHIN 10 DAYS AFTER] moving to the new location.
11 * Sec. 4. AS 05.15.060 is amended to read:
12 Sec. 05.15.060. REGULATIONS. The department shall adopt regulations under the
13 Administrative Procedure Act (AS 44.62) necessary to carry out this chapter covering, but not
14 limited to,
15 (1) the issuance, renewal, and revocation of permits, [AND] licenses**, and vendor**
16 **endorsements**;
17 (2) a method of ascertaining net proceeds, the determination of items of expense
18 that may be incurred or paid, and the limitation of the amount of the items of expense to prevent
19 the proceeds from the activity permitted from being diverted to noncharitable, noneducational,
20 nonreligious, or profit-making organizations, individuals, or groups;
21 (3) the immediate revocation of permits, [AND] licenses**, and vendor**
22 **endorsements** authorized under this chapter if this chapter or regulations adopted under it are
23 violated;
24 (4) the requiring of detailed, sworn, financial reports of operations from
25 permittees, [AND] licensees**, and vendors** including detailed statements of receipts and
26 payments;
27 (5) the investigation of permittees, licensees, **vendors,** and their employees,
28 including the fingerprinting of those permittees, licensees, **vendors,** and employees whom the
29 commissioner considers it advisable to fingerprint;
30 (6) exclusion from participation as a permittee, licensee, **vendor,** or employee of
31 a permittee, [OR] licensee, **or vendor,** of a person convicted of, in prison for, or on parole for

1 a felony within the preceding five years, or convicted of a crime involving theft or dishonesty
2 or of a violation of a municipal, state, or federal gambling law;
3 (7) the method and manner of conducting authorized activities and awarding of
4 prizes or awards, and the equipment that may be used;
5 (8) the number of activities that may be held, operated, or conducted under a
6 permit during a specified period; however, the department may not allow more than 14 bingo
7 sessions a month and 35 bingo games a session to be conducted under a permit;
8 (9) a method of accounting for receipts and disbursements by operators **and**
9 **vendors**, including the keeping of records and requirements for the deposit of all receipts in a
10 bank;
11 (10) the disposition of funds in possession of a permittee, [OR] a person,
12 municipality, or qualified organization that possesses an operator's license**, or a vendor** at the
13 time a permit, [OR] a license**, or a permit that includes a vendor endorsement** is **voluntarily**
14 surrendered, **not renewed, suspended,** revoked, or **otherwise** invalidated;
15 (11) restrictions on the participation by employees of the Department of Fish and
16 Game in salmon classics;
17 (12) other matters the commissioner considers necessary to carry out this chapter
18 or protect the best interest of the public.
19 * **Sec. 5.** AS 05.15.060 is amended by adding a new subsection to read:
20 (b) Regulations adopted by the department under this section relating to charitable
21 gaming activity involving pull-tabs must be consistent with the standards on pull-tabs of the
22 North American Gaming Regulators Association, as amended from time to time.
23 * **Sec. 6.** AS 05.15.070 is amended to read:
24 Sec. 05.15.070. EXAMINATION OF BOOKS AND RECORDS. The commissioner may
25 examine or have examined the books and records of a permittee, an operator, **a vendor,** or a
26 person licensed to manufacture or to distribute pull-tab games in the state. The commissioner may
27 issue subpoenas for the attendance of witnesses and the production of books, records, and other
28 documents.
29 * **Sec. 7.** AS 05.15.095(a) is amended to read:
30 (a) The applications and reports to the department required by this chapter shall be signed
31 under penalty of unsworn falsification by the following person, as applicable:

1 (1) the member in charge for the qualified organization;
2 (2) a person authorized to sign on behalf of the municipality;
3 (3) the operator or the operator's agent;
4 (4) the licensed pull-tab distributor or the distributor's agent; [OR]
5 (5) the licensed pull-tab manufacturer or the manufacturer's agent; or
6 (6) the owner of a vendor or the owner's agent.
7 * Sec. 8. AS 05.15.095(b) is amended to read:
8 (b) A permittee, [OR] operator, or vendor may not conduct an activity under this chapter
9 during a period in which a report or fee is delinquent.
10 * Sec. 9. AS 05.15.112(a) is amended to read:
11 (a) Each municipality or qualified organization that applies for [RECEIVES] a permit
12 under this chapter shall designate a member in charge and at least one alternate member in
13 charge. The member in charge and alternate members in charge designated must have
14 passed a test formulated by the department on the contents of this chapter and the
15 regulations adopted under this chapter. The department shall administer the test at least
16 four times a year.
17 * Sec. 10. AS 05.15.112(b) is amended to read:
18 (b) The member in charge is responsible for preparation, maintenance, and transmittal
19 of all records and reports required of the permittee, and, if the permittee has entered into a
20 contract with an operator under AS 05.15.115, for monitoring the operator's performance
21 under and compliance with that contract. The alternate members in charge are responsible
22 for the duties of the member in charge in the absence of the member in charge. The
23 member in charge and the alternate members in charge shall be members [A MEMBER] of
24 the qualified organization or the board of directors of the qualified organization or employees
25 [AN EMPLOYEE] of the municipality.
26 * Sec. 11. AS 05.15.112 is amended by adding a new subsection to read:
27 (e) If a permittee's designated member in charge or sole alternate member in charge
28 resigns or is no longer able to serve as member in charge or alternate member in charge, the
29 permittee has six months to replace the member in charge or alternate member in charge with
30 a person who meets the requirements of this section, and to notify the department of the
31 replacement. If after six months the permittee has not replaced the member in charge or alternate

1 member in charge with a person who meets the requirements of this section, or has not notified
2 the department of the replacement, the permittee's permit is suspended until the requirements of
3 this subsection are met.
4 * Sec. 12. AS 05.15.122(b) is amended to read:
5 (b) The department may issue an operator's license to a natural person, municipality, or
6 qualified organization that
7 (1) applies on the form provided by the department;
8 (2) pays the annual fee of $500;
9 (3) discloses the identity of persons employed by the applicant in a managerial
10 or supervisory capacity;
11 (4) submits proof of liability insurance satisfactory to the department; [AND]
12 (5) posts a bond or security satisfactory to the department in the amount of
13 $25,000 for each permit under which the operator operates up to a maximum of $100,000; and
14 (6) if a natural person, has passed a test formulated by the department on
15 the contents of this chapter and the regulations adopted under this chapter and
16 administered by the department at least four times a year; or, if a municipality or qualified
17 organization, has designated a municipal employee or member of the organization who has
18 passed this test.
19 * Sec. 13. AS 05.15.124 is amended to read:
20 Sec. 05.15.124. MUNICIPAL REGULATION OF OPERATORS. A municipality may
21 by ordinance prohibit all operators or all vendors [AN OPERATOR] from conducting activities
22 under this chapter within the municipality.
23 * Sec. 14. AS 05.15.128(a) is amended to read:
24 (a) The department shall revoke the license of an operator who does not
25 (1) report an adjusted gross income of at least 15 percent of gross income for two
26 consecutive quarters based on the total operation of the operator; or
27 (2) pay to each authorizing permittee for two consecutive quarters at least
28 (A) 20 [15] percent of the adjusted gross income [, AS DETERMINED
29 UNDER (1) OF THIS SUBSECTION,] received from activities conducted on behalf of
30 the authorizing permittee, if the operator's primary method of conducting activities
31 on behalf of the permittee is through a bingo hall;

1 **(B) 50 percent of the adjusted gross income received from activities**
2 **conducted on behalf of the authorizing permittee, if the operator's primary method**
3 **of conducting activities on behalf of the permittee is through the sale of pull-tabs at**
4 **a retail outlet whose primary purpose is the sale of pull-tabs or through the sale of**
5 **pull-tabs by contract with vendors; or**
6 **(C) 50 percent of the adjusted gross income received from activities**
7 **conducted on behalf of the authorizing permittee, if the operator's primary method**
8 **of conducting activities on behalf of the permittee is by a means other than those**
9 **described in (A) or (B) of this paragraph**.
10 *** Sec. 15.** AS 05.15.170 is repealed and reenacted to read:
11 Sec. 05.15.170. SUSPENSION OR REVOCATION OF PERMIT, LICENSE, OR
12 VENDOR ENDORSEMENT. (a) The commissioner may suspend or revoke a permit, license,
13 or vendor endorsement, after giving notice to and an opportunity to be heard by the permittee,
14 licensee, or vendor, if the permittee, licensee, or vendor
15 (1) violates or fails to comply with a requirement of this chapter or of a regulation
16 adopted under this chapter;
17 (2) breaches a contractual agreement with a permittee, licensee, or vendor;
18 (3) is convicted of a felony, of a crime involving theft or dishonesty, or of a
19 violation of a municipal, state, or federal gambling law; for the purposes of this paragraph, a
20 permittee, licensee, or vendor that is not a natural person is considered convicted if an owner or
21 manager of the permittee, licensee, or vendor is convicted;
22 (4) knowingly submits false information to the department or, in the case of a
23 vendor, to a permittee or operator when the vendor knows that the false information will be
24 submitted to the department as part of an application for a vendor endorsement; or
25 (5) is required to collect a sales tax on charitable gaming activity under a
26 municipal ordinance and fails to collect that tax or to transmit the proceeds of the tax to the
27 municipality in the manner and in the time required by municipal law.
28 (b) If the department revokes a permit, license, or vendor endorsement under this section,
29 it may prohibit the permittee or licensee from reapplying for a permit, license, or vendor
30 endorsement for a period of up to five years.
31 (c) An aggrieved party may appeal the suspension or revocation to the superior court.

1 * **Sec. 16.** AS 05.15.180(g) is amended to read:

2 (g) A municipality or a qualified organization may award a maximum of $1,000,000 in
3 prizes each year in activities authorized under this chapter [; HOWEVER, IF A MUNICIPALITY
4 OR A QUALIFIED ORGANIZATION CONTRACTS WITH AN OPERATOR TO CONDUCT
5 ON ITS BEHALF ACTIVITIES AUTHORIZED UNDER THIS CHAPTER, THE
6 MUNICIPALITY OR QUALIFIED ORGANIZATION MAY AWARD A MAXIMUM OF
7 $500,000 IN PRIZES EACH YEAR]. In this subsection "activities authorized under this chapter"
8 means all activities subject to this chapter other than bingo.

9 * **Sec. 17.** AS 05.15.181(a) is amended to read:

10 (a) A person may not manufacture pull-tabs in the state**, and may not sell or supply a**
11 **pull-tab that the person has manufactured outside of the state to persons in the state,** unless
12 the person has received a pull-tab manufacturer's license issued by the department.

13 * **Sec. 18.** AS 05.15.183(d) is amended to read:

14 (d) A pull-tab distributor shall report to the department by the last business day of each
15 month on each pull-tab series distributed in the preceding month. The report must include the
16 name of the permittee**, operator, or pull-tab distributor** to whom each series of pull-tabs is
17 distributed and the serial number of each series.

18 * **Sec. 19.** AS 05.15.183 is amended by adding a new subsection to read:

19 (e) A distributor may not

20 (1) take an order for the purchase of a pull-tab series from a vendor;

21 (2) sell a pull-tab series to a vendor; or

22 (3) deliver a pull-tab series to a vendor location.

23 * **Sec. 20.** AS 05.15.184 is amended to read:

24 Sec. 05.15.184. PULL-TAB TAX. **At the time of the distribution of a pull-tab series**
25 **to a permittee, an operator, or another distributor, a** [A] pull-tab distributor shall collect a
26 tax of three percent of **the ideal net for** [AN AMOUNT EQUAL TO THE GROSS RECEIPTS
27 LESS PRIZES AWARDED ON] each series of pull-tabs distributed. The pull-tab distributor shall
28 pay to the department the tax collected in the preceding month at the time that the report under
29 AS 05.15.183(d) is filed with the department.

30 * **Sec. 21.** AS 05.15.185 is amended to read:

31 Sec. 05.15.185. DISTRIBUTION OF PULL-TAB GAMES. Each series of pull-tabs

1 distributed in the state must be sealed and have a serial number label issued by the National
2 Association of Fundraising Ticket Manufacturers or other serial number label approved by the
3 department and may be distributed only to a municipality or a qualified organization that has
4 obtained a permit issued under this chapter, [OR] to an operator on behalf of an authorizing
5 permittee, or to a distributor licensed under this chapter.
6 * **Sec. 22.** AS 05.15.187 is amended by adding new subsections to read:
7 (h) An owner, manager, or employee of a person holding a permit or license under this
8 chapter, or registered under this chapter as a vendor, may not purchase a pull-tab from any pull-
9 tab series manufactured, distributed, or sold by the permittee, licensee, or vendor.
10 (i) An operator may not purchase a pull-tab series from a distributor that is owned in
11 whole or in part, directly or indirectly, by the operator, unless more than 50 percent of the
12 distributor's sales of pull-tab series are made to permittees, operators, or distributors that are
13 wholly independent from the distributor.
14 * **Sec. 23.** AS 05.15 is amended by adding a new section to article 2 to read:
15 Sec. 05.15.188. PULL-TAB SALES BY VENDORS ON BEHALF OF PERMITTEES
16 AND OPERATORS; VENDOR ENDORSEMENT. (a) A permittee or operator may contract
17 with a vendor to sell pull-tabs on behalf of the permittee or operator, if the permittee or operator
18 first applies for a vendor endorsement from the department on a form prescribed by the
19 department and submits an endorsement fee of $50 for each location at which the vendor intends
20 to sell pull-tabs. The endorsement fee shall be paid by the vendor by check, and the vendor may
21 not be reimbursed for the fee by the permittee or operator. If a vendor location is within the
22 boundaries of a municipality, the permittee or operator shall, concurrently with applying for a
23 vendor endorsement with the department, submit a copy of the application form to the governing
24 body of the municipality.
25 (b) The department shall approve or disapprove an application for a vendor endorsement
26 within 30 working days of receipt of the application from a permittee or operator.
27 (c) Upon approval of the vendor application, the department shall issue an endorsement
28 to the permittee's permit or the operator's license that authorizes the conduct of pull-tab sales at
29 that vendor location.
30 (d) The endorsement issued under (c) of this section is an extension of the permittee's
31 or operator's privilege under AS 05.15.100 to conduct pull-tab sales. A vendor may not sell a

1 pull-tab series until the endorsement for the new vendor location has been posted at the vendor
2 location for which the endorsement was issued. The endorsement and the permit or license must
3 be clearly visible to the gaming public.
4 (e) A separate endorsement shall be issued for each vendor location. The permittee or
5 operator shall inform the department and the governing body of the municipality in which the
6 vendor operates when a vendor with whom the permittee or operator is contracting changes the
7 physical location at which pull-tabs are sold, and shall apply for and obtain another endorsement
8 before the vendor may sell pull-tabs on behalf of the permittee or operator at the new vendor
9 location. A permittee or operator shall return to the department the endorsed permit or license
10 of a vendor that is no longer selling pull-tabs on behalf of the permittee or operator. Failure to
11 inform the department of a change in vendor location, or to return a permit or license to the
12 department that contains the endorsement of a vendor that is no longer selling pull-tabs on behalf
13 of the permittee or operator, constitutes grounds for the suspension or revocation of a permittee's
14 permit or an operator's license under AS 05.15.170.
15 (f) At the time that a permittee or operator annually renews its permit or license, it shall
16 also renew the endorsement for each location of each vendor that is selling pull-tabs on the
17 permittee's or operator's behalf. The permittee or operator shall pay an endorsement renewal fee
18 of $50 for each vendor location. The endorsement renewal fee shall be paid by the vendor by
19 check, and the vendor may not be reimbursed for the fee by the permittee or operator.
20 (g) A permittee or operator that uses a vendor to sell pull-tabs on its behalf shall enter
21 into a written contract with that vendor, and a copy of the contract must be submitted to the
22 department for approval. If the contract contains provisions that violate this chapter or the
23 regulations adopted under it, the department may refuse to issue the vendor endorsement for that
24 location.
25 (h) A person, other than a permittee's member-in-charge or an operator, may not
26 distribute or deliver a pull-tab series to a vendor for sale by that vendor on behalf of the
27 permittee or operator. A vendor may not acquire a pull-tab series from a pull-tab distributor.
28 (i) If a permittee or operator contracts with a vendor under (a) of this section, the
29 contract must provide that the permittee or operator shall receive no less than 70 percent of the
30 ideal net.
31 (j) An amount equal to the ideal net less the compensation paid to the vendor shall be

1 paid by the vendor to the permittee or operator at the time that the member in charge or operator
2 delivers a pull-tab series to the vendor for sale. The amount required to be paid by the vendor
3 under this subsection shall be paid by check and shall be deposited by the permittee or operator
4 directly into its gaming checking account.
5 (k) A permittee or operator may contract with more than one vendor under this section,
6 and a vendor may contract with more than one permittee or operator.
7 * **Sec. 24.** AS 05.15 is amended by adding a new section to read:
8 Sec. 05.15.195. ORDER PROHIBITING ACTION IN VIOLATION OF CHAPTER. (a)
9 If the commissioner determines that a person has engaged in an act or practice in violation of this
10 chapter or a regulation adopted under this chapter, the commissioner may, after giving reasonable
11 notice to the person and an opportunity for the person to be heard, issue an order prohibiting the
12 violation by the person. The order remains in effect until the person has submitted evidence
13 acceptable to the commissioner showing that the violation has been corrected.
14 (b) If the public interest requires, the commissioner may issue an emergency order
15 prohibiting an act or practice in violation of this chapter or a regulation adopted under this
16 chapter without notice to or an opportunity to be heard by the person affected by the order. The
17 commissioner shall immediately serve the person with a copy of the emergency order. An
18 emergency order expires 60 days after the date it is issued, if the person affected by the order
19 requests a hearing within 15 days of receipt of the order. If the person does not request a hearing
20 within 15 days of receipt of the emergency order, the order becomes permanent. Following a
21 hearing, the commissioner may rescind, modify, or make permanent the emergency order.
22 (c) A party aggrieved by an order under this section may appeal to the superior court.
23 * **Sec. 25.** AS 05.15.200(b) is amended to read:
24 (b) A person who, with the intent to mislead a public servant in the performance of the
25 public servant's duty, submits a false statement in an application for a permit**, license, or vendor**
26 **endorsement** under this chapter [,] is guilty of unsworn falsification.
27 * **Sec. 26.** AS 05.15.210 is amended by adding new paragraphs to read:
28 (35) "ideal net" means an amount equal to the total amount of receipts that would
29 be received if every individual pull-tab ticket in a series were sold at face value, less the prizes
30 to be awarded for that series;
31 (36) "managerial or supervisory capacity" means that the employee

1 (A) is responsible for gaming receipts;
2 (B) has the authority to hire employees or to dismiss or otherwise
3 discipline them;
4 (C) prepares financial reports required under this chapter;
5 (D) is responsible for keeping the accounts for activities under this
6 chapter; or
7 (E) is responsible for conducting activities under this chapter, including
8 the arranging for locations at which those activities will occur.
9 (37) "permittee" means a municipality or a qualified organization that holds a
10 valid permit under AS 05.15.100;
11 (38) "vendor" means a business whose primary activity is not regulated by this
12 chapter but that is engaged in the sale of pull-tabs on behalf of a permittee or operator, holds a
13 business license under AS 43.70, and is
14 (A) a retail establishment;
15 (B) an eating establishment; or
16 (C) an establishment licensed under AS 04.11.
17 * **Sec. 27.** TRANSITIONAL PROVISION. The Department of Commerce and Economic
18 Development shall prepare the tests required by AS 05.15.112(a), as amended by sec. 9 of this Act, and
19 by AS 05.15.122(b), as amended by sec. 12 of this Act, so that they may first be offered no later than
20 January 1992.
21 * **Sec. 28.** Sections 1 - 2 and 9 - 12 of this Act take effect January 1, 1993.
22 * **Sec. 29.** Except for secs. 1 - 2 and 9 - 12 of this Act, this Act takes effect immediately under
23 AS 01.10.070(c).