

SENATE

Introduced: 1/11/93
 Referred: L&C, FIN

HOUSE

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 Referred: STA, L&C, FIN

EXECUTIVE ORDER NO. 82

1 Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance
 2 with AS 24.08.210, I order the following:

3 * **Section 1. FINDINGS.** As governor, I find that it would be in the best interests of the
 4 state, and would increase the efficiency of the administration of the charitable gaming
 5 program (AS 05.15) to transfer that program from the Department of Commerce and
 6 Economic Development to the Department of Revenue.

7 * **Sec. 2.** AS 05.15.010 is amended to read:

8 Sec. 05.15.010. DEPARTMENT OF REVENUE [COMMERCE AND
 9 ECONOMIC DEVELOPMENT] TO ADMINISTER CHAPTER. The Department of
 10 Revenue [COMMERCE AND ECONOMIC DEVELOPMENT] shall administer this
 11 chapter.

12 * **Sec. 3.** AS 05.15.030 is amended to read:

13 Sec. 05.15.030. REQUIRED NOTICES BY APPLICANT, PERMITTEE, OR
 14 LICENSEE. (a) At the time of filing an application for a permit or license under this
 15 chapter, the applicant shall notify the city or borough nearest to the location of the
 16 proposed activity of the application. A local government unit may protest the conduct
 17 of the activity in its jurisdiction by resolution stating the reasons for the protest filed
 18 with the department; protests are limited to the lack of qualifications prescribed by
 19 this chapter. This resolution is only a recommendation by the local government that
 20 may be considered by the department [COMMISSIONER] in determining whether
 21 to issue or refuse to issue a permit or license.

22 (b) In addition to the requirements of (a) of this section, an applicant for a
 23 permit to conduct an activity under AS 05.15.100(b) shall notify the law enforcement

1 agency having jurisdiction over the location of the proposed activity. The
2 department [COMMISSIONER] may not issue a permit for the proposed activity
3 unless the application is accompanied by the written approval of the law enforcement
4 agency having jurisdiction.

5 (c) If a permittee or licensee changes the location of an activity in the
6 jurisdiction for which a permit has been issued, the permittee shall notify the
7 department and the local government within 10 days after moving to the new location.

8 * Sec. 4. AS 05.15.060 is amended to read:

9 Sec. 05.15.060. REGULATIONS. The department shall adopt regulations
10 under the Administrative Procedure Act (AS 44.62) necessary to carry out this chapter
11 covering, but not limited to,

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

13 (2) a method of ascertaining net proceeds, the determination of items
14 of expense that may be incurred or paid, and the limitation of the amount of the items
15 of expense to prevent the proceeds from the activity permitted from being diverted to
16 noncharitable, noneducational, nonreligious, or profit-making organizations,
17 individuals, or groups;

18 (3) the immediate revocation of permits and licenses authorized under
19 this chapter if this chapter or regulations adopted under it are violated;

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

22 (5) the investigation of permittees, licensees, and their employees,
23 including the fingerprinting of those permittees, licensees, and employees whom the
24 department [COMMISSIONER] considers it advisable to fingerprint;

25 (6) exclusion from participation as a permittee, licensee, or employee
26 of a permittee or licensee, of a person convicted of, in prison for, or on parole for a
27 felony within the preceding five years, or convicted of a crime involving theft or
28 dishonesty or of a violation of a municipal, state, or federal gambling law;

29 (7) the method and manner of conducting authorized activities and
30 awarding of prizes or awards, and the equipment that may be used;

31 (8) the number of activities that may be held, operated, or conducted

1 under a permit during a specified period; however, the department may not allow
2 more than 14 bingo sessions a month and 35 bingo games a session to be conducted
3 under a permit;

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

7 (10) the disposition of funds in possession of a permittee or a person,
8 municipality, or qualified organization that possesses an operator's license at the time
9 a permit or a license is surrendered, revoked, or invalidated;

10 (11) restrictions on the participation by employees of the Department
11 of Fish and Game in salmon classics and in king salmon classics, and by employees
12 of Douglas Island Pink and Chum in king salmon classics;

13 (12) other matters the department [COMMISSIONER] considers
14 necessary to carry out this chapter or protect the best interest of the public.

15 * Sec. 5. AS 05.15.070 is amended to read:

16 Sec. 05.15.070. EXAMINATION OF BOOKS AND RECORDS. The
17 department [COMMISSIONER] may examine or have examined the books and
18 records of a permittee, an operator, or a person licensed to manufacture or to
19 distribute pull-tab games in the state. The department [COMMISSIONER] may
20 issue subpoenas for the attendance of witnesses and the production of books, records,
21 and other documents.

22 * Sec. 6. AS 05.15.090 is amended to read:

23 Sec. 05.15.090. REPORTS TO THE LEGISLATURE. Before April 15 of
24 each year, the department [COMMISSIONER] shall submit a detailed report
25 containing a summary of all reports required of permittees and operators. The
26 attorney general and the commissioner of public safety shall, within 10 days after the
27 convening of the legislature each year, submit a jointly prepared, detailed report
28 outlining the effect, if any, of the operation of this chapter on the legal and law
29 enforcement activities of the state.

30 * Sec. 7. AS 05.15.100 is amended to read:

31 Sec. 05.15.100. ISSUANCE OF PERMITS AND LICENSES. (a) The

1 ~~department~~ [COMMISSIONER] may issue a permit to a municipality or qualified
2 organization. The permit gives the municipality or qualified organization the privilege
3 of conducting bingo, raffles and lotteries, pull-tab games, ice classics, rain classics,
4 goose classics, mercury classics, salmon classics, king salmon classics, dog mushers'
5 contests, fish derbies, and contests of skill.

6 (b) The department [COMMISSIONER] also may issue a permit giving a
7 municipality or qualified organization the privilege of conducting an activity involving
8 the use of playing cards, dice, and numbers wheels. Each year, a municipality or
9 qualified organization may apply for a permit under this subsection for either a single
10 event lasting no more than three consecutive days, or for no more than three events
11 lasting no more than one day each.

12 (c) The department [COMMISSIONER] may issue an operator's license to
13 a natural person to conduct an activity permitted under this chapter on behalf of a
14 municipality or a qualified organization. The department [COMMISSIONER] may
15 also issue an operator's license to a municipality or a qualified organization to
16 conduct an activity on behalf of another municipality or qualified organization.

17 * Sec. 8. AS 05.15.130 is amended to read:

18 Sec. 05.15.130. DEPARTMENT [COMMISSIONER] MAY IMPOSE
19 ADDITIONAL REQUIREMENTS FOR ELIGIBILITY. The department
20 [COMMISSIONER] may supplement the definitions of qualified organizations and
21 activities by regulations adopted under this chapter adding to the definitions additional
22 requirements that the department [COMMISSIONER] considers necessary for the
23 best interests of the public or for the proper administration of this chapter.

24 * Sec. 9. AS 05.15.140 is amended to read:

25 Sec. 05.15.140. PROOF NECESSARY TO QUALIFY FOR PERMIT. (a)
26 The department [COMMISSIONER] may not issue or renew a permit except upon
27 satisfactory proof that the applicant is a municipality or qualified organization, the
28 activity may be permitted under this chapter, and the issuance of a permit is not
29 detrimental to the best interests of the public. Upon request of the department
30 [COMMISSIONER], the applicant shall prove conclusively each of these requirements
31 before a permit may be issued or renewed.

1 (b) In an application for a permit, a municipality or qualified organization
2 shall disclose the name and address of each person responsible for the operation of
3 the activity and whether any person named

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

8 (2) has a prohibited financial interest, as defined in regulations
9 adopted by the department [COMMISSIONER], in the operation of the
10 activity.

11 (c) The department [COMMISSIONER] may not issue a permit for an
12 activity operated by a person who has been convicted of, in prison for, or on parole
13 for a felony within the preceding five years, or convicted of a crime involving theft
14 or dishonesty or of a violation of a municipal, state, or federal gambling law.

15 (d) Application forms for permits must contain a notice that a false statement
16 in the application is punishable by law.

17 * Sec. 10. AS 05.15.150(b) is amended to read:

18 (b) The net proceeds derived from the activity must be devoted within one
19 year to one or more of the uses stated in (a) of this section. A municipality or
20 qualified organization desiring to hold the net proceeds for a period longer than one
21 year must apply to the department [COMMISSIONER] for special permission and
22 upon good cause shown the department [COMMISSIONER] may grant the request.

23 * Sec. 11. AS 05.15.170 is amended to read:

24 Sec. 05.15.170. SUSPENSION OF PERMIT. The department
25 [COMMISSIONER] may suspend a permit pending investigation or hearing. The
26 suspension is effective upon the giving of notice to the permittee. The notice may be
27 given by the delivery or handing of written notice to the permittee or a person
28 conducting an activity under the permittee's permit or the mailing of notice to the
29 permittee at the address shown on the permit. A permit may be suspended under this
30 section for a period of 90 days or until the end of a hearing or other proceeding begun
31 during suspension. The authority of the department [COMMISSIONER] to suspend

1 a permit is not subject to the Administrative Procedure Act (AS 44.62).

2 * Sec. 12. AS 05.15.180(a) is amended to read:

3 (a) Except as provided in AS 05.15.100(b), this chapter does not authorize the
4 use of playing cards, dice, roulette wheels, coin-operated instruments or machines, or
5 other objects or instruments used, designed, or intended primarily for gaming or
6 gambling or any other method or implement not expressly authorized by the
7 department [COMMISSIONER].

8 * Sec. 13. AS 05.15.180(c) is amended to read:

9 (c) The operation of activities licensed under AS 05.15.100(b) is limited as
10 follows:

11 (1) cash prizes may not be awarded;

12 (2) only money substitutes such as chips or scrips may be used by a
13 player in the activity;

14 (3) the money substitutes may be exchanged only for prizes other than
15 money and may not be otherwise exchanged or sold; and

16 (4) additional limitations may be established by the department
17 [COMMISSIONER] under adopted regulations.

18 * Sec. 14. AS 05.15.210(8) is amended to read:

19 (8) "department" means the Department of Revenue [COMMERCE
20 AND ECONOMIC DEVELOPMENT];

21 * Sec. 15. AS 11.66.280(2) is amended to read:

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

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

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(B) paying an amusement device that

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

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

(C) an activity authorized by the Department of Revenue [COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT] under AS 05.15;

* Sec. 16. AS 05.15.210(6) and AS 44.33.020(31) are repealed.

* Sec. 17. TRANSITION. (a) Litigation, hearings, investigations, and other proceedings pending under a law amended or repealed by this Order, or in connection with functions transferred by this Order, continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided for in this Order.

(b) Regulations relating to games of chance and contests of skill adopted by the Department of Revenue or the Department of Commerce and Economic Development before the effective date of this Order remain in effect until regulations relating to that function are adopted by the Department of Revenue under AS 05.15, as amended by this Order, and take effect. Until its regulations adopted on or after the effective date of this Order take effect, the Department of Revenue may administer and enforce those previously adopted Department of Revenue and Department of Commerce and Economic Development regulations.

(c) Records, equipment, appropriations, and other property of an agency of the state whose functions are transferred under this Order shall be transferred to implement the provisions of this Order.

* Sec. 18. This Order takes effect July 1, 1993.

DATED: _____

Walter J. Hickel
Governor