

STATE OF ALASKA
FISCAL NOTE

Revision Date 5/6, 1983

I. REQUEST

Bill/Resolution No: CSHB 360(Jud)
Title: Games of Chance and Skill
Sponsor: Flood
Requestor: House Judiciary

II. FISCAL DETAIL

Agency Affected: Revenue
Program Category Affected: Rev. Operations
BRU, Program of Subprogram(s) Affected: Public Svcs. & Enforcement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		29.5	31.5	34.0	36.5	39.5
200 TRAVEL	-	4.5	4.8	5.0	5.5	6.0
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	4.5	5.0	5.5	6.0	6.5
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
TOTAL OPERATING	-	38.5	41.3	44.5	48.0	52.0
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	38.5	41.3	44.5	48.0	52.0
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-
-	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	one	one	one	one	one
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Marcy Rehfeld
Division: Office of the Commissioner

Phone: 465-2300
Date: 5/6/83

Approved by Commissioner: Robert D. Heath
Department: Revenue

Date: 5/6/83

Distribution:

Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

IV. ANALYSIS:

To insure equitable compliance with the law, a full-time investigator will be needed and audit and investigation will require a minimum of eight field trips per year.

Supplies and commodities include new forms, mail outs and miscellaneous clerical supplies. All instructions and forms will require immediate revision and reprint.

Offered: 5/6/83
Referred: Finance

Original sponsor: Flood

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 360 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to permits issued for games of
chance and contests of skill."

7

8

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

9

* Section 1. AS 05.15.030 is amended by adding a new subsection to
read:

10

11

(b) In addition to the requirements of (a) of this section, an
applicant for a permit to conduct an activity under AS 05.15.100(b)
shall notify the law enforcement agency having jurisdiction over the
location of the proposed activity. The commissioner of revenue may
not issue a permit for the proposed activity unless the application is
accompanied by the written approval of the law enforcement agency
having jurisdiction.

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* Sec. 2. AS 05.15.100 is amended by adding a new subsection to read:

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(b) The commissioner of revenue also may issue a permit giving a
municipality or qualified organization the privilege of conducting an
activity involving the use of playing cards, dice, and numbers wheels.
A municipality or qualified organization may apply for a permit for
only one activity a year under this subsection. For the purpose of
this subsection, "one activity" means a single event lasting no more
than three consecutive days.

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* Sec. 3. AS 05.15.140 is amended by adding new subsections to read:

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

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29

1 named

2 (1) has ever been convicted of a felony or gambling misde-
3 meanor; or

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

7 (c) The commissioner of revenue may not issue a permit for an
8 activity operated by a person who has been convicted of a felony or a
9 gambling misdemeanor.

10 (d) Application forms for permits shall contain a notice that a
11 false statement in the application is punishable by law.

12 * Sec. 4. AS 05.15.160 is repealed and reenacted to read:

13 Sec. 05.15.160. AUTHORIZED EXPENSES. No item of expense may be
14 incurred or paid in connection with the operation of an activity under
15 a permit issued under this chapter except for bona fide expenses
16 reasonably necessary for

17 (1) goods, wares, and merchandise necessary for the opera-
18 tion of the activity;

19 (2) personal services rendered that are not directly or
20 indirectly involved with the operation of the activity; or

21 (3) personal services involved with the operation of the
22 activity provided the services are performed by an employee of the
23 municipality, qualified organization, or a consultant hired by the
24 municipality or qualified organization conducting the activity and the
25 compensation is not related to the receipts from the activity.

26 * Sec. 5. AS 05.15.180 is amended to read:

27 Sec. 05.15.180. LIMITATIONS ON AUTHORIZED ACTIVITY. (a) Except
28 as provided in AS 05.15.100(b), this [THIS] chapter does not authorize
29 the use of playing cards, dice, roulette wheels, coin-operated

1 instruments or machines, or other objects or instruments used,
2 designed, or intended primarily for gaming or gambling or any other
3 method or implement not expressly authorized by the commissioner.

4 (b) With the exception of raffles, lotteries, [AND] rairi clas-
5 sics, and other activities authorized under AS 05.15.100(b), no activ-
6 ity may be licensed under this chapter unless it existed in the state
7 in substantially the same form and was conducted in substantially the
8 same manner before January 1, 1959.

9 * Sec. 6. AS 05.15.180 is amended by adding a new subsection to read:

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

12 (1) no cash prizes may be awarded;

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

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

17 (4) additional limitations that may be established by the
18 commissioner of revenue under adopted regulations.

19 * Sec. 7. AS 05.15.200 is repealed and reenacted to read:

20 Sec. 05.15.200. PENALTIES. (a) A person who knowingly violates
21 or aids or solicits a person to violate this chapter is guilty of a
22 violation for the first offense and a class B misdemeanor for the
23 second and each subsequent offense.

24 (b) A person who, with the intent to mislead a public servant in
25 the performance of the public servant's duty, submits a false state-
26 ment in an application for a permit under this chapter, is guilty of
27 unsworn falsification.

28 * Sec. 8. AS 05.15.210 is amended by adding a new paragraph to read:

29 (23) "numbers wheel" means any electronic, mechanical, or

1 other device with numbers or other figures that are selected randomly
2 and used in a game of chance in which the outcome is determined by the
3 number or figure selected by the device; not including slot machines
4 or other devices that operate by insertion of a coin or other object
5 that may entitle the person operating the machine to receive a prize
6 by strict dependence on the element of chance.

7 * Sec. 9. AS 11.66.280(2) is amended by adding a new subparagraph to
8 read:

9 (C) an activity authorized by the commissioner of
10 revenue under AS 05.15.010 - 05.15.210;

Offered: 5/6/83
Referred: Finance

Original sponsor: Flood

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BY THE JUDICIARY COMMITTEE

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CS FOR HOUSE BILL NO. 360 (Judiciary)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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THIRTEENTH LEGISLATURE - FIRST SESSION

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STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 360
 Title: "Act relating to permits issued..."
 Sponsor: Rep. Flood
 Requestor: House Judiciary

II. FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Crime & ID
 BRU, Program of Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis No fiscal impact anticipated

Prepared By: Paul A. Conger Phone: 465-4338
 Division: Administrative Services Date: 5-4-83
 Approved by Commissioner: [Signature] Date: 5/4/83
 Department: Public Safety

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
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STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

HB 360

I. REQUEST

Bill/Resolution No: HB 360
Title: Act relating to permits issued for
games of chance and contests of skill
Sponsor: Judiciary & Finance
Requestor: Representative Flood

II. FISCAL DETAIL

Agency Affected: Department of Revenue
Program Category Affected: Rev. Operations
BRU, Program of Subprogram(s) Affected:
Public Svcs. & Enforcement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		43.0	46.0	49.0	56.0	60.0
200 TRAVEL		7.5	8.0	8.5	9.0	9.5
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES		4.5	5.0	5.5	6.0	6.5
500 EQUIPMENT		-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
TOTAL OPERATING		55.0	59.0	63.0	71.0	76.0
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND		55.0	59.0	63.0	71.0	76.0
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS:

FULL-TIME		1.5	1.5	1.5	1.5	1.5
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-
		1.5	1.5	1.5	1.5	1.5

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Ralph Kimlinger, Acting Director
Division: Public Services Division

Phone: 465-2392
Date: 4-22-83

Approved by Commissioner: *Ralph Kimlinger*
Department: Revenue

Date: 4/26/83

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

ANALYSIS

HB 360

1. Passage of HB 360 will require a full time, seasonal, Tax Examiner to handle a minimum of 150 applications. Each application and attendant Financial Statement requires 1.5 to 2.0 hours of processing and in addition clerical time of approximately one hour per application is required.

To insure equitable compliance with the law, a full time investigator will be needed and audit and investigation will require a minimum of eight field trips per year.

Supplies and commodities include new forms, mail outs and miscellaneous clerical supplies. All instruction and forms will require immediate revision and reprint.

New office equipment will be required for both requested positions.



PHONE 277-8615 ☉ P.O. BOX 773 ☉ ANCHORAGE, ALASKA 99510
☉ LOCATION: 737 WEST 5TH AVENUE

A NON-PROFIT CIVIC ORGANIZATION

April 13, 1983

The Honorable Joe Flood
Pouch V
Juneau, AK 99811

Ref: Monte Carlo Nite Activities by
non-profit organizations under
AS 05.15

Dear Representative Flood:

The Attorney General recently issued an opinion that Monte Carlo -
Casino Nite fund raising activities were not authorized for a permit
under AS 05.15 (copy enclosed).

Since Monday, April 11, I have met with Ben Harding of the Governor's
office, Diane Colvin, of the Attorney General's office, and Ralph
Kimlinger, of the Department of Revenue. It was mutually agreed that
any changes of Alaska Law should reflect only the type of fund raising
activities currently conducted now by non-profit organizations
throughout the state.

The enclosed bill would accomplish the above and also require that:

1. Only organizations defined under AS 05.15 could conduct Monte Carlo
type activities.
2. Monte Carlo type activities would be limited to one (1) permit
night per year.
3. The Monte Carlo permit has to be approved by the responsible law
enforcement agency.

Monte Carlo Nite for Fur Rendezvous over the past 40 or so years has
grown to where it provides approximately \$50,000.00 in revenue for Rony
and it funds many of our non-income generating events.

The Fur Rendezvous "Monte Carlo Nite" uses over 400 volunteers to host the event for over 6,000 people who participate in the one night of fun and games. The size of our event is limited only to the size of a facility available.

We would like you to review the proposed bill and relay your comments to us.

Time is of the essence and we would also like you to consider being a sponsor of the bill to assure passage this year.

Sincerely,

Wally

Wally Hopkins
Director & Governmental Affairs Liaison

Enclosures

TOM: F.V.I.
PLEASE CALL
IF YOU HAVE
?'S ON THIS
DRAFT. THE
FINAL IS FORTH-
COMING.

April 15, 1983

Honorable Barbara Lacher
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

Attn: Eve Fox
Administrative Assistant

Re: Monte Carlo nights bill

Dear Ms. Fox:

You asked that we provide you with a summary of the bill amending AS 05.15, relating to issuance ^{of} permits for games of chance. The bill was drafted in response to our opinion of March 3, 1983, which found that the Department of Revenue is not authorized to issue a permit for Monte Carlo/Casino Night activities. A copy of that opinion is attached.

The bill (Sec. 2) amends AS 05.15.100 to authorize the department of revenue to issue a permit to a municipality or a qualified organization (a qualified organization is one that has been in existence for five years and meets the other requirements set forth in AS 05.15.210(15)) to conduct activities involving playing cards, dice and numbers wheels. Only one activity may be conducted in a year and a separate permit must be obtained for each event.

DM
X-4894
4-16-83

Honorable Barbara Lacher
Representative
Alaska State Legislature

April 15, 1983
Page 2

An applicant for a permit is further required to obtain approval from the nearest law enforcement agency. (Sec. 1). This is in addition to the requirement in current law under AS 05.15.030 to notify the nearest unit of local government at the time of application for a permit.

The bill (Sec. 3) also makes certain technical amendments to clarify the meaning of authorized activities.

We hope this information is useful to you. If you wish additional assistance, please contact us.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:
Diane T. Colvin
Assistant Attorney General

DTC:eja

MEMORANDUM

State of Alaska

TO: Robert D. Heath
Commissioner
Department of Revenue

DATE: March 3, 1983

FILE NO: 366-439-83

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Eligibility of Monte
Carlo/Casino Night
activities for a
permit under AS
05.15

By: 
Diane T. Colvin
Assistant Attorney General

You have asked us two questions relating to the issuance of permits under AS 05.15, Games of Chance and Contests of Skill:

1. May the Department of Revenue issue a permit under AS 05.15.100 for Monte Carlo/Casino Night activities?

2. May the department issue a permit under AS 05.-15.180(b) if the Monte Carlo/Casino Night activities were conducted in the state prior to January 1, 1959?

You also asked if the Alcoholic Beverage Control Board may exclude the area used for Monte Carlo/Casino Night activities from a caterer's permit issued under AS 04.11.230. We answer the first two questions in the negative, finding no statutory authority for the department to issue permits for Monte Carlo activities. In response to the third question, we believe that the Alcoholic Beverage Control Board does have the authority to exclude an area in which Monte Carlo activities are conducted from a caterer's permit.

Issuance of Permits for Monte Carlo/Casino Night Activities

Under AS 05.15.100 the Commissioner of the Department of Revenue may issue a permit to a qualified organization for "the privilege of conducting bingo, raffles and lotteries, ice classics, rain classics, dog mushers' contests, fish derbies and contests of skill." You ask whether a permit may be issued under this statute for Monte Carlo/Casino Night activities.

In the memorandum accompanying your request, you describe a range of activities that might be conducted in connection with a Monte Carlo/Casino Night. The activities extend from games in which no money or prizes are involved to those in

RECEIVED
ALASKA DEPARTMENT OF REVENUE

MAR 4 1983

OFFICE OF THE COMMISSIONER

which both money and prizes are involved. All of the games described include the use of cards, dice, roulette wheels or coin-operated devices. Without discussing each of the situations you describe, we will presume, for purposes of this memorandum, that if the elements of consideration, chance, and prize are present, in any form or to any degree, the activity constitutes gambling and if it is to be conducted at all within the state, a permit must be obtained under AS 05.15. State v. Pinball Machs., 404 P.2d 923 (Alaska 1965); Morrow v. State, 511 P.2d 127 (Alaska 1973).

Thus, the question is whether a permit can be issued for Monte Carlo activities under AS 05.15. AS 05.15.100 authorizes permits for 7 specific activities: bingo, raffles and lotteries, ice classics, rain classics, dog mushers' contests, fish derbies and contests of skill. Each of these activities is defined by AS 05.15.210. None of the definitions cover the activities described in your request and accompanying memorandum. Therefore, we conclude that the department may not issue a permit under AS 05.15.100 for Monte Carlo activities.

The plain language of AS 05.15.100 and 05.15.210 leads to this conclusion. Additional support is found in AS 05.15.180(a). This subsection provides:

This chapter does not authorize the use of playing cards, dice, roulette wheels, coin-operated instruments or machines, or other objects or instruments used, designed, or intended primarily for gaming or gambling. . . (emphasis added)

These types of devices are used in Monte Carlo activities as you describe them. Under section 180(a) the commissioner does not have the authority to issue a permit authorizing their use.

Thus, we can only conclude that a permit may not be issued for Monte Carlo activities under AS 05.15. You also ask whether an exemption might be provided by AS 05.15.180(b), which provides as follows:

With the exception of raffles, lotteries and rain classics, no activity may be licensed under this chapter unless it existed in the state in substantially the same form and was conducted in substantially the same manner before January 1, 1959.

To qualify under this subsection, a Monte Carlo activity would have to meet the definition of raffle, lottery or rain

classic or meet the prior existence requirement in the main clause. It is clear from the definitions of raffle and lottery and rain classic in AS 05.15.210(16) and (20) that a Monte Carlo activity is not a raffle, lottery or rain classic. Thus, in order to qualify, a Monte Carlo night would have had to have been in existence prior to 1959 and it would have had to have been conducted in substantially the same manner. Thus, upon proof that an activity did exist in the state prior to 1959 and was conducted in a nearly identical manner before that time, a permit could be issued by the department. However, in regard to Monte Carlo activities, AS 05.15.180(b) must be interpreted in conjunction with AS 05.15.180(a), set forth above. This subsection places a flat prohibition on activities which include the use of "playing cards, dice, roulette wheels, coin-operated instruments or machines, or other objects or instruments used, designed or intended primarily for gaming or gambling." According to the descriptions you provided, these devices are commonly used in Monte Carlo activities. The commissioner is not authorized to issue a permit for activities in which these devices are used. Subsection (b) does not provide an exception to this prohibition, but rather provides an additional qualification. The commissioner may issue a permit for an activity other than raffles, lotteries, and rain classics if it meets the 1959 requirement of AS 05.15.180(b) and if it does not include the use of playing cards, dice, roulette wheels, and other devices prohibited by AS 05.15.180(a). A statute "should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant. . . ." 2 A.C. Sands, Statutes and Statutory Construction § 46.06 (4th ed. 1973). See Libby v. City of Dillingham, 612 P.2d 33, 39 (Alaska 1980). If section 180(b) were interpreted to allow activities involving roulette wheels and similar devices on the basis that they existed before 1959, subsection (a) would be rendered superfluous and irrelevant. This does not appear to be the intent of the legislature.

Therefore, we conclude that AS 05.15.180(b) does not provide an exemption for Monte Carlo activities even if they existed and were conducted in substantially the same manner prior to 1959.

Exclusion of Area in which Monte Carlo Activities are Conducted from Caterer's Permit issued by Alcoholic Beverage Control Board

Under AS 04.11.230, the Alcoholic Beverage Control Board is authorized to issue a caterer's permit which authorizes the holder of the permit to sell or dispense alcoholic beverages at events such as conventions and sporting events. In your request, you state that the board in the past has issued these

permits to organizations conducting Monte Carlo activities, but has excluded the area in which the activities are conducted from the caterer's permit. You ask whether the Board is authorized to limit the permit in this manner.

We believe the Board has the authority to limit a caterer's permit in the manner described. First, AS 04.11.230 states that the permit "may only be issued for designated premises", granting the Board the authority to specify the premises where beverages may be served under a permit. Second, AS 04.-06.100(b)(3) authorizes the Board to adopt regulations on the terms and conditions of permits issued. The Board has adopted 15 AAC 104.675, requiring the applicant for a permit to submit with an application a description of the proposed premises and a drawing designating which areas are for storage, service and consumption. The Board has the authority to approve or disapprove the areas submitted. Finally, AS 04.06.090(c) provides as follows:

When considering an application, the board may reduce the area to be designated the licensed premises below the area applied for when, in the judgment of the board, a reduction in area is necessary to insure control over the sale and consumption of alcoholic beverages on the premises or is otherwise in the best interests of the public.

Technically, this applies only to licensed premises, but it is reasonable to assume that the Board should have similar authority in regard to areas in which liquor is served under a caterer's permit.

It should also be noted that there is no prohibition against minors engaging in activities for which permits are issued under AS 05.15. Thus, it is reasonable for the board to prevent liquor from being served in areas in which these activities are conducted and to carefully scrutinize applications for caterer's permits when it is known that minors may be participating in the games of chance allowed (or disallowed) under AS 05.-15.

Thus, we conclude that the Alcoholic Beverage Control Board is authorized to exclude and is acting reasonably when it excludes areas in which Monte Carlo activities are conducted from a caterer's permit.

We hope this information is of assistance to you. We understand that the conclusions reached here may have a negative

Robert D. Heath, Commissioner
Department of Revenue

March 3, 1983
Page 5

effect on certain organizations that have conducted Monte Carlo activities in the past. These groups should be advised to seek legislative change if they wish to continue sponsoring these activities.

If you wish further information, please contact us.

DTC:eja

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 20, 1983

SUBJECT: Permits for games of chance
(CSHB 360 (Judiciary))

TO: Representative Albert P. Adams
Chairman, House Finance Committee

FROM: Keith B. Levy *KBL*
Legislative Counsel

The following is a sectional analysis of CSHB 360 (Judiciary) and a comparison of the committee substitute with the original bill. Sections 1, 2, and 3 of the original bill are substantially the same as sections 1, 2, and 5, respectively, of the committee substitute. The original bill contains no provisions comparable to sections 3, 4, and 6 - 8 of the committee substitute.

Section 1 of CSHB 360 (Judiciary) amends AS 05.15.030 to provide that the commissioner of revenue may not issue a permit for an activity involving playing cards, dice, or numbers wheels without the prior written approval of the law enforcement agency having jurisdiction over the location of the proposed activity. This section is substantially the same as sec. 1 of the original bill except that it requires the approval of the law enforcement agency having jurisdiction over the location of the proposed activity rather than the agency nearest the location.

Section 2 of CSHB 360 (Judiciary) authorizes the commissioner of revenue to issue permits for activities involving the use of playing cards, dice, and numbers wheels (AS 05.15.100(b)). These activities are not permitted under the current law. It limits qualified organizations to one activity a year under this section and defines "one activity" as a single event lasting no more than three consecutive days. Sec. 2 of the original bill is substantially the same as sec. 2 of the committee substitute except that the original bill does not define "one activity".

Section 3 of the committee substitute provides new disclosure requirements for organizations seeking any kind of gambling permit under AS 05.15. The bill requires these organizations to disclose the name and address of each person responsible for the operation of an activity under the chapter, whether these people have ever been convicted of any felony or a gambling misdemeanor, and whether these people have a prohibited financial interest, as defined by the commissioner of revenue, in the operation of the activity (AS 05.15.140(b)). The section prohibits the commissioner of revenue from issuing a permit for an activity operated by a person who has been convicted of any felony or a gambling misdemeanor (AS 05.15.140(c)). The section also requires applications for a permit under the chapter to contain a notice that a false statement on the application is punishable by law (AS 05.15.140(d)). The original bill contains no provision comparable to sec. 3 of the committee substitute.

Section 4 of the committee substitute repeals and reenacts AS 05.15.160 to amend the authorized expenses that are permitted in connection with the operation of all activities under AS 05.15. It limits authorized expenses to bona fide expenses reasonably necessary for goods, wares, and merchandise necessary for the activity, personal services not involved with the operation of the activity, and personal services that are involved with the operation of the activity if performed by an employee or a consultant of the organization running the activity. The original bill contains no provision comparable to sec. 4 of the committee substitute.

Section 5 of the committee substitute amends AS 05.15.180 to provide that activities permitted under AS 05.15.100(b) are not subject to the general prohibition against these activities provided in AS 05.15.180(a). It also provides that these activities are exempt from the general provision that such activities are only authorized if they existed in the same form and were conducted in substantially the same manner before January 1, 1959 (AS 05.15.180(b)). Sec. 5 of the committee substitute is substantially the same as sec. 3 of the original bill.

Section 6 of the committee substitute adds further limitations on activities conducted under AS 05.15.100(b). In these activities no cash prizes may be awarded, only money substitutes may be used by players in the activity, the

Representative Albert P. Adams
Page 3
May 20, 1983

money substitutes may only be exchanged for prizes other than money, and the commissioner of revenue may adopt regulations establishing other limitations (AS 05.15.180(c)). The original bill contains no provision comparable to sec. 6 of the committee substitute.

Section 7 of the committee substitute repeals and reenacts AS 05.15.200 which provides penalties for the violation of AS 05.15. Under the new section, a person who knowingly violates the chapter is guilty of a violation for the first offense and a class B misdemeanor for each subsequent offense (AS 05.15.200(a)). A person who intentionally submits a false statement on an application for a permit under the chapter is guilty of unsworn falsification (AS 05.15.200(b)). The original bill has no provision comparable to sec. 7 of the committee substitute.

Section 8 of the committee substitute amends AS 05.15.210 to provide a definition of "numbers wheel". A numbers wheel is any electronic, mechanical, or other device with numbers or other figures that are selected randomly and used in a game of chance in which the outcome is determined by the number or figure selected by the device, but not including slot machines or other devices that operate by insertion of a coin or other object that may entitle the person operating the machine to receive a prize by strict dependence on the element of chance. The original bill contains no provision comparable to section 8 of the committee substitute.

Section 9 of the committee substitute amends AS 11.66.280(2) to provide that activities authorized under AS 05.15.010 - 05.15.210 are not considered gambling for purposes of the criminal code. The original bill contains no provision comparable to sec. 9 of the committee substitute.

KBL:ljb
21/003

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

ELEVENTH FLOOR
STATE OFFICE BUILDING
POUCH SA
JUNEAU, ALASKA 99811

March 18, 1983

RECEIVED

MAR 31 1983

Re: Authorized Games of Chance and Contests of Skill

Anchorage-Police Dept.

Dear Permittee:

The Department of Revenue has never authorized Monte Carlo or Casino Night activities under permits issued for Games of Chance and Contests of Skill (Alaska Statute-05-15).

We were recently asked if a "grandfather right" existed if a qualified organization defined in the Statute had conducted these activities prior to January 1, 1959 (Alaska Statute 05:15.180(b)). We requested an opinion of the Attorney General on whether Monte Carlo or Casino Night activities could be authorized on a permit issued to a municipality or qualified organization under this Statute.

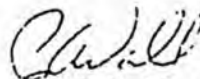
In the same request, we asked the Attorney General to review the action taken by the Alcoholic Beverage Control Board in excluding any area established for a Monte Carlo or Casino Night activity from authorized caterer's permit premises.

The Attorney General has determined that Monte Carlo and Casino Night activities cannot be authorized under Alaska Statute 05.15. These activities, if conducted, are subject to the provisions of Alaska Statute 11.66.200 - 280, dealing with illegal gambling.

The Attorney General has also ruled that the Alcoholic Beverage Control Board is correct in not licensing the area established for Monte Carlo or Casino Night activity as premises for distribution of alcoholic beverages under a caterers permit.

I have attached a copy of the opinion from the Attorney General and would suggest that, if your organization has sponsored Monte Carlo or Casino Night activities, and wish to continue to do so, you first obtain a change in the law by the Alaska Legislature. A copy of the Attorney General's opinion is also being sent to municipal law enforcement agencies throughout the state and to the Alaska Department of Public Safety.

Sincerely,



Phil Wall, Director
Public Services Division

Attachment

cc: Alaska Department of Public Safety
All Municipal Law Enforcement Agencies

MEMORANDUM

State of Alaska

TO: Robert D. Heath
Commissioner
Department of Revenue

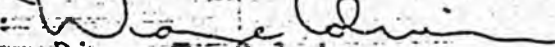
DATE: March 3, 1983

FILE NO: 366-439-83

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Eligibility of Monte Carlo/Casino Night activities for a permit under AS 05.15

By: 
Diane T. Colvin
Assistant Attorney General

You have asked us two questions relating to the issuance of permits under AS 05.15, Games of Chance and Contests of Skill:

1. May the Department of Revenue issue a permit under AS 05.15.100 for Monte Carlo/Casino Night activities?
2. May the department issue a permit under AS 05.15.180(b) if the Monte Carlo/Casino Night activities were conducted in the state prior to January 1, 1957?

You also asked if the Alcoholic Beverage Control Board may exclude the area used for Monte Carlo/Casino Night activities from a caterer's permit issued under AS 04.11.230. We answer the first two questions in the negative, finding no statutory authority for the department to issue permits for Monte Carlo activities. In response to the third question, we believe that the Alcoholic Beverage Control Board does have the authority to exclude an area in which Monte Carlo activities are conducted from a caterer's permit.

Issuance of Permits for Monte Carlo/Casino Night Activities

Under AS 05.15.100 the Commissioner of the Department of Revenue may issue a permit to a qualified organization for "the privilege of conducting bingo, raffles and lotteries, ice classics, rain classics, dog mushers' contests, fish derbies and contests of skill." You ask whether a permit may be issued under this statute for Monte Carlo/Casino Night activities.

In the memorandum accompanying your request, you describe a range of activities that might be conducted in connection with a Monte Carlo/Casino Night. The activities extend from games in which no money or prizes are involved to those in

which both money and prizes are involved. All of the games described include the use of cards, dice, roulette wheels or coin-operated devices. Without discussing each of the situations you describe, we will presume, for purposes of this memorandum, that if the elements of consideration, chance, and prize are present, in any form or to any degree, the activity constitutes gambling and if it is to be conducted at all within the state, a permit must be obtained under AS 05.15. State v. Pinball Machs., 404 P.2d 923 (Alaska 1965); Morrow v. State, 511 P.2d 127 (Alaska 1973).

Thus, the question is whether a permit can be issued for Monte Carlo activities under AS 05.15. AS 05.15.100 authorizes permits for 7 specific activities: bingo, raffles and lotteries, ice classics, rain classics, dog mushers' contests, fish derbies and contests of skill. Each of these activities is defined by AS 05.15.210. None of the definitions cover the activities described in your request and accompanying memorandum. Therefore, we conclude that the department may not issue a permit under AS 05.15.100 for Monte Carlo activities.

The plain language of AS 05.15.100 and 05.15.210 leads to this conclusion. Additional support is found in AS 05.15.180(a). This subsection provides:

This chapter does not authorize the use of playing cards, dice, roulette wheels, coin-operated instruments or machines, or other objects or instruments used, designed, or intended primarily for gaming or gambling. . . (emphasis added)

These types of devices are used in Monte Carlo activities as you describe them. Under section 180(a) the commissioner does not have the authority to issue a permit authorizing their use.

Thus, we can only conclude that a permit may not be issued for Monte Carlo activities under AS 05.15. You also ask whether an exemption might be provided by AS 05.15.180(b), which provides as follows:

With the exception of raffles, lotteries and rain classics, no activity may be licensed under this chapter unless it existed in the state in substantially the same form and was conducted in substantially the same manner before January 1, 1959.

To qualify under this subsection, a Monte Carlo activity would have to meet the definition of raffle, lottery or rain

classic or meet the prior existence requirement in the main clause. It is clear from the definitions of raffle and lottery and rain classic in AS 05.15.210(16) and (20) that a Monte Carlo activity is not a raffle, lottery or rain classic. Thus, in order to qualify, a Monte Carlo night would have had to have been in existence prior to 1959 and it would have had to have been conducted in substantially the same manner. Thus, upon proof that an activity did exist in the state prior to 1959 and was conducted in a nearly identical manner before that time, a permit could be issued by the department. However, in regard to Monte Carlo activities, AS 05.15.180(b) must be interpreted in conjunction with AS 05.15.180(a), set forth above. This subsection places a flat prohibition on activities which include the use of "playing cards, dice, roulette wheels, coin-operated instruments or machines, or other objects or instruments used, designed or intended primarily for gaming or gambling." According to the descriptions you provided, these devices are commonly used in Monte Carlo activities. The commissioner is not authorized to issue a permit for activities in which these devices are used. Subsection (b) does not provide an exception to this prohibition, but rather provides an additional qualification. The commissioner may issue a permit for an activity other than raffles, lotteries, and rain classics if it meets the 1959 requirement of AS 05.15.180(b) and if it does not include the use of playing cards, dice, roulette wheels, and other devices prohibited by AS 05.15.180(a). A statute "should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant. . . ." 2 A.C. Sands, Statutes and Statutory Construction § 46.06 (4th ed. 1973). See Libby v. City of Dillingham, 612 P.2d 33, 39 (Alaska 1980). If section 180(b) were interpreted to allow activities involving roulette wheels and similar devices on the basis that they existed before 1959, subsection (a) would be rendered superfluous and irrelevant. This does not appear to be the intent of the legislature.

Therefore, we conclude that AS 05.15.180(b) does not provide an exemption for Monte Carlo activities even if they existed and were conducted in substantially the same manner prior to 1959.

Exclusion of Area in which Monte Carlo Activities are Conducted from Caterer's Permit issued by Alcoholic Beverage Control Board

Under AS 04.11.230, the Alcoholic Beverage Control Board is authorized to issue a caterer's permit which authorizes the holder of the permit to sell or dispense alcoholic beverages at events such as conventions and sporting events. In your request, you state that the board in the past has issued these

Robert D. Heath, Commissioner
Department of Revenue

March 3, 1983
Page 4

permits to organizations conducting Monte Carlo activities, but has excluded the area in which the activities are conducted from the caterer's permit. You ask whether the Board is authorized to limit the permit in this manner.

We believe the Board has the authority to limit a caterer's permit in the manner described. First, AS 04.11.230 states that the permit "may only be issued for designated premises", granting the Board the authority to specify the premises where beverages may be served under a permit. Second, AS 04.06.100(b)(3) authorizes the Board to adopt regulations on the terms and conditions of permits issued. The Board has adopted 15 AAC 104.675, requiring the applicant for a permit to submit with an application a description of the proposed premises and a drawing designating which areas are for storage, service and consumption. The Board has the authority to approve or disapprove the areas submitted. Finally, AS 04.06.090(c) provides as follows:

When considering an application, the board may reduce the area to be designated the licensed premises below the area applied for when, in the judgment of the board; a reduction in area is necessary to insure control over the sale and consumption of alcoholic beverages on the premises or is otherwise in the best interests of the public.

Technically, this applies only to licensed premises, but it is reasonable to assume that the Board should have similar authority in regard to areas in which liquor is served under a caterer's permit.

It should also be noted that there is no prohibition against minors engaging in activities for which permits are issued under AS 05.15. Thus, it is reasonable for the board to prevent liquor from being served in areas in which these activities are conducted and to carefully scrutinize applications for caterer's permits when it is known that minors may be participating in the games of chance allowed (or disallowed) under AS 05.15.

Thus, we conclude that the Alcoholic Beverage Control Board is authorized to exclude and is acting reasonably when it excludes areas in which Monte Carlo activities are conducted from a caterer's permit.

We hope this information is of assistance to you. We understand that the conclusions reached here may have a negative

Robert D. Heath, Commissioner
Department of Revenue

March 3, 1983
Page 5

effect on certain organizations that have conducted Monte Carlo activities in the past. These groups should be advised to seek legislative change if they wish to continue sponsoring these activities.

If you wish further information, please contact us.

DTG:eja

Introduced: 4/15/83
Referred: Judiciary and Finance

1 IN THE HOUSE

BY FLOOD

2

HOUSE BILL NO. 360

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to permits issued for games of
7 chance and contests of skill."

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

9 * Section 1. AS 05.15.030 is amended by adding a new subsection to
10 read:

11 (b) In addition to the requirements of (a) of this section, an
12 applicant for a permit to conduct an activity under AS 05.15.100(b)
13 shall notify the law enforcement agency nearest to the location of the
14 proposed activity of the application. The commissioner of revenue may
15 not issue a permit for the proposed activity unless the law enforce-
16 ment agency approves the permit.

17 * Sec. 2. AS 05.15.100 is amended by adding a new subsection to read:

18 (b) The commissioner of revenue also may issue a permit giving a
19 municipality or qualified organization the privilege of conducting an
20 activity involving the use of playing cards, dice, and numbers wheels.
21 A municipality or qualified organization may conduct only one activity
22 a year under this subsection and must obtain a separate permit for
23 each activity.

24 * Sec. 3. AS 05.15.180 is amended to read:

25 Sec. 05.15.180. LIMITATIONS ON AUTHORIZED ACTIVITY. (a) Except
26 as provided in AS 05.15.100(b), this [THIS] chapter does not authorize
27 the use of playing cards, dice, roulette wheels, coin-operated instru-
28 ments or machines, or other objects or instruments used, designed, or
29 intended primarily for gaming or gambling or any other method or

1 implement not expressly authorized by the commissioner.

2 (b) With the exception of raffles, lotteries, [AND] raffle clas-
3 sics, and other activities authorized under AS 05.15.100, no activity
4 may be licensed under this chapter unless it existed in the state in
5 substantially the same form and was conducted in substantially the
6 same manner before January 1, 1959.