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# HOUSE COMMITTEE REPORT

(7)

Date Referred: February 9, 1990

FURTHER REFERRALS:  
LABOR & COMMERCE

Date of Committee Action: 3/29/90

The COMMUNITY & REGIONAL AFFAIRS Committee considered: HB 512

HOUSE BILL NO. 512

"An Act relating to the retail sale of pull-tabs, tickets, and cards for charitable gaming activities."

**RECOMMENDATIONS:**

- be replaced with CS HB 512 (CERA) ~~the same title~~  a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(s): \_\_\_\_\_ APPROVES PREVIOUS: \_\_\_\_\_ (Date/Dept)

- fiscal impact Commerce & Econ Dev. [ ] fiscal note(s) \_\_\_\_\_
- zero fiscal note \_\_\_\_\_ [ ] zero fiscal note(s) \_\_\_\_\_
- zero with analysis \_\_\_\_\_ [ ] zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS:**

Eileen P. Mahan  
Richard J. Jolley "NO"

**SIGNING:**

(Check approp. column)

	Do Not Pass	No Rec	Amend
_____			
_____ on Amend's 3+4+6			
<u>Cheri Davis</u>	X		X
_____			
_____			
_____			
_____			
_____			

Eileen P. Mahan  
Chairman's Signature

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: An Act relating to the retail sale of pull-tabs, tickets, and cards.  
Sponsor: Rep. Boucher  
Requestor: House C&RA

Agency Affected: Commerce & Econ. Dev.  
BRU: Occupational Licensing

Components: \_\_\_\_\_

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	50.3	50.3	50.3	50.3	50.3	50.3
TRAVEL	8.0	8.0	8.0	8.0	8.0	8.0
CONTRACTUAL	3.0	3.0	3.0	3.0	3.0	3.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	9.9					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>72.2</b>	<b>62.3</b>	<b>62.3</b>	<b>62.3</b>	<b>62.3</b>	<b>62.3</b>

CAPITAL	0	0	0	0	0	0
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REVENUE	100.0	100.0	100.0	100.0	100.0	100.0
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**FUNDING:** (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS *						
OTHER	72.2	62.3	62.3	62.3	62.3	62.3
<b>TOTAL</b>	<b>72.2</b>	<b>62.3</b>	<b>62.3</b>	<b>62.3</b>	<b>62.3</b>	<b>62.3</b>

**POSITIONS:**

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

(SEE ATTACHED)

Prepared by: Jennifer Strickler, Admin. Officer Phone: 465-2144  
Division: Occupational Licensing Date: 3/29/90

Approved by Commissioner: Larry Merculieff, Commissioner Date: 3/29/90  
Agency: Department of Commerce and Economic Development

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

\* Funding Source is General Fund/Program Receipts

CONTINUATION OF FISCAL NOTE ANALYSIS  
HB 512 (C&RA)

The bill authorizes a person other than a permittee or operator to sell the pull-tabs necessary to conduct a charitable gaming activity under AS 05.15.100 provided the vendor is registered with the department and complies with the provisions of the bill.

Charitable gaming activity in Alaska is a rapidly growing industry and the enforcement of the Gaming Reform Act of 1988 is becoming more difficult in light of increased gaming activity. Presently, the number of gaming investigators (just two) is inadequate to support statewide enforcement of the gaming program and gaming enforcement is therefore not as timely and as efficient as necessary to fully protect the playing public or the permitted charitable organizations.

The recognition of vendors in HB 512, as well as our ability under HB 512 to take enforcement action in the face of vendor noncompliance, will increase the investigatory burden. (Until now, the division has taken complaints regarding vendor actions but has had no authority to take action to correct or otherwise enforce compliance.) We are therefore submitting a fiscal note requesting funding for an additional investigator.

The new vendor registration will affect a significant number of businesses and charitable organizations throughout the state. We have seen unlawful activity within the gaming industry. The investigator position requested by this fiscal note will greatly assist the division in beefing-up its current gaming enforcement and will promote compliance with gaming laws in the state.

The \$72.2 required includes \$8.0 in travel, to fund the cost of widespread travel to various communities, and a one-time equipment charge of \$9.9.

With a vendor registration fee of \$50, we estimate that regulation of vendors will bring in approximately \$100.0 in program receipts (\$50 x 2,000 vendors).

1.	POSITION TITLE INVESTIGATOR III				RANGE/STEP 18A	BARG. UNIT GGU	PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION:					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>The bill authorizes a person other than a permittee or operator to sell the pull-tabs necessary to conduct a charitable gaming activity under AS 05.15.100 provided the vendor is registered with the department and complies with the provisions of the bill.</p> <p>Charitable gaming activity in Alaska is a rapidly growing industry and the enforcement of the Gaming Reform Act of 1988 is becoming more difficult in light of increased gaming activity. Presently, the number of gaming investigators (just two) is inadequate to support statewide enforcement of the gaming program and gaming enforcement is therefore not as timely and as efficient as necessary to fully protect the playing public or the permitted charitable organizations.</p> <p>The recognition of vendors in HB 512, as well as our ability under HB 512 to take enforcement action in the face of vendor noncompliance, will increase the investigatory burden. (Until now, the division has taken complaints regarding vendor actions but has had no authority to take action to correct or otherwise enforce compliance.) We are therefore submitting a fiscal note requesting funding for an additional investigator.</p> <p>The new vendor registration will affect a significant number of businesses and charitable organizations throughout the state. We have seen unlawful activity within the gaming industry. The investigator position requested by this fiscal note will greatly assist the division in beefing-up its current gaming enforcement and will promote compliance with gaming laws in the state.</p> <p>The \$72.2 required includes \$8.0 in travel, to fund the cost of widespread travel to various communities, and a one-time equipment charge of \$9.9.</p> <p>With a vendor registration fee of \$50, we estimate that regulation of vendors will bring in approximately \$100.0 in program receipts (\$50 x 2,000 vendors).</p>					
	1		2	3						
	PERSONAL SERVICES									
5.	Salary		37.3							
6.	Benefits		13.0							
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES	01		50.3						
10.	Travel	02		8.0						
11.	Contractual	03		3.0						
12.	Commodities	04		1.0						
13.	Equipment	05		9.9						
14.	Other									
15.	TOTAL COST			72.2						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004								
19.		I-A Receipts 1005								
20.		Program Receipts 1028		72.2						
21.		Other								
	FOR B&M USE ONLY									
	KEY NUMBER									

REQUEST FOR  
NEW POSITION  
LGJORS/SB501FN

AGENCY Commerce and Economic Development  
Occupational Licensing  
 BRU Investigations  
 COMPONENT \_\_\_\_\_

FY 91

Page 3 of 3  
 Revised Date \_\_\_\_\_

# STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

## LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 22, 1990

SUBJECT: Sectional analysis of CSHB 512 (C&RA)  
TO: Representative Eileen MacLean  
Chair, House C&RA Committee  
FROM: John B. Gaguine *JBG*  
Legislative Counsel

You have requested a sectional analysis of the draft of CSHB 512 (C&RA).—

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 rewrites current AS 05.15.170 to achieve three goals: to expand it to include suspension or revocation of the registration of a vendor; to enumerate the grounds on which a permit, license or registration can be suspended or revoked; and to correct possible due process flaws in the existing law.

Section 2 allows a permittee to award a maximum of \$1,000,000 in prizes annually as part of charitable gaming activity whether or not the permittee has contracted with an operator. Currently only a permittee who has not contracted with an operator may award \$1,000,000; if an operator is involved, the maximum is \$500,000. The section retains the provision of existing law that the maximum does not apply to bingo.

Section 3 makes it clear that a pull-tab distributor may not deal directly with a vendor, but must go through an operator or a permittee.

Section 4 provides that the owner, manager or employee of any entity regulated under AS 05.15 may not purchase pull-

tabs from a series manufactured, distributed or sold by the entity. The prohibition extends to volunteers working for an entity.

Section 5 provides for registering of pull-tab vendors. It describes the mechanics of registration and permit display; sets a registration fee of \$50 per year per vendor location; requires a written contract between the vendor and the operator or permittee; places a ceiling on the compensation that a vendor may receive for selling a pull-tab series; requires the vendor to make an up-front payment to the permittee or operator within 30 days of the date that the series is delivered to the vendor; and restricts some members of charitable organizations and some municipal officials and employees from acting as vendors for compensation.

Sections 6 and 7 relate to the charitable gaming surety fund that is proposed by another bill before the legislature. If the legislature establishes such a fund, vendors will be required to make an annual contribution to the fund, not to exceed \$100.

Section 8 provides a mechanism for the Department of Commerce and Economic Development to administratively enjoin violations of AS 05.15 and the department's regulations. It includes a provision for emergency orders issued before a hearing is held; such orders would be limited to 60 days duration.

Section 9 expands the criminal sanctions for submitting false information in an application to the department to encompass applications for licenses and vendor registrations, and not just permits.

Section 10 defines some new terms. Most importantly, it defines a vendor eligible for registration as a retail establishment, an eating establishment, or any establishment with a license of any sort issued by the Alcoholic Beverage Control Board.

Section 11 makes Section 6 and 7 effective on the effective date of an Act establishing the charitable gaming surety fund.

Section 12 makes the rest of the Act effective immediately.

6-2127E  
Gaguine  
3/22/90

Original sponsor(s): REP. BOUCHER, Boyer, Shultz, Zawacki

1 IN THE HOUSE

BY THE C&RA COMMITTEE

2 CS FOR HOUSE BILL NO. 512 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to charitable gaming; and providing  
7 for an effective date."

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

9 \* Section 1. AS 05.15.170 is repealed and reenacted to read:

10 Sec. 05.15.170. SUSPENSION OR REVOCATION OF PERMIT, LICENSE, OR  
11 VENDOR REGISTRATION. (a) The commission may suspend or revoke a  
12 permit, license, or vendor registration, after giving notice to and an  
13 opportunity to be heard by the permittee, licensee, or vendor, if the  
14 permittee, licensee, or vendor

15 (1) violates or fails to comply with a requirement of this  
16 chapter or of a regulation adopted under this chapter;

17 (2) breaches a contractual agreement with a permittee,  
18 licensee, or registered vendor;

19 (3) is convicted of a felony, of a crime involving theft or  
20 dishonesty, or of a violation of a municipal, state, or federal gam-  
21 bling law; for the purposes of this paragraph, a permittee, licensee,  
22 or registered vendor that is not a natural person is considered con-  
23 victed if an owner or manager of the permittee, licensee, or vendor is  
24 convicted; or

25 (4) knowingly submits false information to the department  
26 or, in the case of a registered vendor, to a permittee or operator  
27 when the vendor knows that the false information will be submitted to  
28 the department as part of an application for registration.

29 (b) If the department revokes a permit, license, or vendor

1 registration under this section, it may prohibit the permittee, li-  
2 censee, or vendor from reapplying for a permit, license, or vendor  
3 registration for a period of up to five years.

4 \* Sec. 2. AS 05.15.180(g) is amended to read:

5 (g) A permittee [MUNICIPALITY OR A QUALIFIED ORGANIZATION] may  
6 award a maximum of \$1,000,000 in prizes each year in activities au-  
7 thorized under this chapter [; HOWEVER, IF A MUNICIPALITY OR A QUALI-  
8 FIED ORGANIZATION CONTRACTS WITH AN OPERATOR TO CONDUCT ON ITS BEHALF  
9 ACTIVITIES AUTHORIZED UNDER THIS CHAPTER, THE MUNICIPALITY OR QUALI-  
0 FIED ORGANIZATION MAY AWARD A MAXIMUM OF \$500,000 IN PRIZES EACH  
11 YEAR]. In this subsection, "activities authorized under this chapter"  
12 means all activities subject to this chapter other than bingo.

13 \* Sec. 3. AS 05.15.183 is amended by adding a new subsection to read:

14 (e) A distributor may not

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

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

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

19 \* Sec. 4. AS 05.15.187 is amended by adding a new subsection to read:

20 (h) An owner, manager, or employee of a person holding a permit  
21 or license under this chapter, or registered under this chapter as a  
22 vendor, may not purchase a pull-tab from any pull-tab series manu-  
23 factured, distributed, or sold by the permittee, licensee, or regis-  
24 tered vendor. In this subsection, "employee" includes a person work-  
25 ing without compensation.

26 \* Sec. 5. AS 05.15 is amended by adding a new section to article 2 to  
27 read:

28 Sec. 05.15.188. PULL-TAB SALES BY VENDORS ON BEHALF OF PERMIT-  
29 TEES AND OPERATORS; VENDOR REGISTRATION. (a) A permittee or operator

1 may contract with a vendor to sell pull-tabs on behalf of the permit-  
2 tee or operator, if the permittee or operator first registers the  
3 vendor with the department by applying for registration on a form pre-  
4 scribed by the department and by submitting the registration fee of  
5 \$50 for each location at which the vendor will sell pull-tabs.

6 (b) The department shall approve or disapprove an initial vendor  
7 registration request within 10 working days of receipt of the regis-  
8 tration form from a permittee or operator.

9 (c) Upon approval of the vendor registration, the department  
10 shall issue an endorsement to the permittee's permit or the operator's  
11 license that authorizes the conduct of pull-tab sales at that vendor  
12 location.

13 (d) The endorsement issued under (c) of this section is an  
14 extension of the permittee's or operator's privilege under AS 05.15.-  
15 100 to conduct pull-tab sales in this state. A vendor may not sell a  
16 pull-tab series until the permit or license containing the endorsement  
17 for the new vendor location has been posted by the permittee or opera-  
18 tor in the registered vendor establishment. The endorsed permit or  
19 license must be clearly visible to the gaming public.

20 (e) A separate endorsement shall be issued for each vendor  
21 location. The permittee or operator shall inform the department when  
22 a vendor with whom the permittee or operator is contracting changes  
23 the physical location at which pull-tabs are sold, and shall return to  
24 the department the endorsed permit or license of a vendor that is no  
25 longer selling pull-tabs on behalf of the permittee or operator.  
26 Failure to inform the department of a change in vendor location, or to  
27 return the endorsed permit or license to the department after a vendor  
28 change, may constitute grounds for the suspension or revocation of a  
29 permittee's permit or an operator's license.

1 (f) At the time that a permittee or operator annually renews its  
2 permit or license, it shall also renew the registration of all loca-  
3 tions where a vendor is selling pull-tabs on the permittee's or opera-  
4 tor's behalf and shall pay a registration fee of \$50 for each vendor  
5 location.

6 (g) A permittee or operator that uses a vendor to sell pull-tabs  
7 on its behalf shall enter into a written contract with that vendor.  
8 The department may inspect this contract. If the contract contains  
9 provisions that violate this chapter or the regulations adopted under  
10 it, the department may declare the contract void, and may suspend or  
11 revoke the registration of the vendor and the license of the operator  
12 or the permit of the permittee.

13 (h) A person, other than a permittee's member-in-charge or an  
14 operator, may not directly supply a pull-tab series to a registered  
15 vendor for sale by that vendor on behalf of the permittee or operator.  
16 A vendor may not acquire a series from a licensed distributor.

17 (i) A permittee or operator may not compensate a vendor for  
18 selling a series of pull-tabs on the permittee's or operator's behalf  
19 in an amount greater than <sup>15</sup> 30 percent of the ideal net.

20 (j) An amount equal to the ideal net less the compensation paid  
21 to the vendor shall be paid by the vendor within 30 days of the date  
22 that the member in charge or operator delivers a pull-tab series to  
23 the vendor for sale. The amount required to be paid by the vendor  
24 under this subsection must be paid by check and shall be deposited by  
25 the permittee or operator directly into its gaming checking account.

26 (k) A vendor may not enter into a contract with a permittee to  
27 sell pull-tabs for compensation if

28 (l) the permittee is a qualified organization, and the  
29 owner or manager of the vendor is a member of the governing body of

1 the organization, or is the organization's designated member in charge  
2 under AS 05.15.112; or

3 (2) the permittee is a municipality, and the owner or  
4 manager of the vendor is an elected official of the municipality or is  
5 employed by the municipality in a managerial position.

6 \* Sec. 6. AS 05.15.188(g) is repealed and reenacted to read:

7 (g) At the time that a permittee or operator annually renews its  
8 permit or license, it shall also renew the registration of all loca-  
9 tions where a vendor is selling pull-tabs on the permittee's or opera-  
10 tor's behalf and shall pay a registration fee of \$50 for each vendor  
11 location. The permittee or operator shall also forward, with each  
12 vendor registration renewal, that vendor's annual payment of the  
13 assessment to the charitable gaming surety fund.

14 \* Sec. 7. AS 05.15.188 is amended by adding a new subsection to read:

15 (m) The vendor registration required by (a) of this section  
16 shall be accompanied by payment of the vendor's assessment to the  
17 charitable gaming surety fund under AS 05.15.230. The assessment  
18 amount shall be set by the department by regulation and may not exceed  
19 \$100. The payment shall be drawn on the checking account of the  
20 vendor and may not be paid by the permittee or operator on the ven-  
21 dor's behalf.

22 \* Sec. 8. AS 05.15 is amended by adding a new section to read:

23 Sec. 05.15.195. ORDER PROHIBITING ACTION IN VIOLATION OF CHAP-  
24 TER. (a) If the commissioner determines that a person has engaged in  
25 an act or practice in violation of this chapter or a regulation  
26 adopted under this chapter, the commissioner may, after giving reason-  
27 able notice to the person and an opportunity for the person to be  
28 heard, issue an order prohibiting the violation by the person. The  
29 order remains in effect until the person has submitted evidence

1 acceptable to the commissioner showing that the violation has been  
2 corrected.

3 (b) If the public interest requires, the commissioner may issue  
4 an emergency order prohibiting an act or practice in violation of this  
5 chapter or a regulation adopted under this chapter without notice to  
6 or an opportunity to be heard by the person affected by the order.  
7 The commissioner shall immediately serve the person with a copy of the  
8 emergency order. An emergency order expires 60 days after the date it  
9 is issued, if the person affected by the order requests a hearing  
10 within 15 days of receipt of the order. If the person does not re-  
11 quest a hearing within 15 days of receipt of the emergency order, the  
12 order becomes permanent. Following a hearing, the commissioner may  
13 rescind, modify, or make permanent the emergency order.

14 \* Sec. 9. AS 05.15.200(b) is amended to read:

15 (b) A person who, with the intent to mislead a public servant in  
16 the performance of the public servant's duty, submits a false state-  
17 ment in an application for a permit, license, or vendor registration  
18 under this chapter [,] is guilty of unsworn falsification.

19 \* Sec. 10. AS 05.15.210 is amended by adding new paragraphs to read:

20 (35) "ideal net" means an amount equal to the total amount  
21 of receipts that would be received if every individual pull-tab ticket  
22 in a series were sold at face value, less the prizes to be awarded for  
23 that series;

24 (36) "permittee" means a municipality or a qualified orga-  
25 nization that holds a valid permit under AS 05.15.100;

26 (37) "vendor" means a business whose primary activity is not  
27 regulated by this chapter but that is engaged in the sale of pull-tabs  
28 on behalf of a permittee or operator, holds a business license under  
29 AS 43.70, and is

- 1 (A) a retail establishment;
- 2 (B) an eating establishment; or
- 3 (C) an establishment licensed under AS 04.11.

4 \* Sec. 11. Sections 6 and 7 of this Act take effect on the effective  
5 date of an Act establishing a charitable gaming surety fund that is enacted  
6 by the Sixteenth Alaska State Legislature.

7 \* Sec. 12. Except for secs. 6 and 7, this Act takes effect immediately  
8 under AS 01.10.070(c).

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. MACLEAN

TO: CSHB 512(C&RA)

Page 1, following line 8:

Insert a new bill section to read:

"\* Section 1. AS 05.15.060 is amended to read:

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

(1) the issuance, renewal, and revocation of permits, [AND] licenses, and vendor registrations;

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

(3) the immediate revocation of permits, [AND] licenses, and vendor registrations authorized under this chapter if this chapter or regulations adopted under it are violated;

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

(5) the investigation of permittees, licensees, registered

vendors, and their employees, including the fingerprinting of those permittees, licensees, registered vendors, and employees whom the commissioner considers it advisable to fingerprint;

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

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

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

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

(10) the disposition of funds in possession of a permittee, [OR] a person, municipality, or qualified organization that possesses an operator's license, or a registered vendor at the time a permit, [OR] a license, or a vendor registration is surrendered, revoked, or invalidated;

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

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

Page 1, line 9:

Delete "Section 1"

Insert "Sec. 2"

Renumber the following bill sections accordingly.

Page 7, line 4:

Delete "6 and 7"

Insert "7 and 8"

Page 7, line 7:

Delete "6 and 7"

Insert "7 and 8"

#2

C-212720  
Gaguine

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. MACLEAN

TO: CSHB 512(C&RA)

Page 1, following line 8:

Insert a new bill section to read:

"\* Section 1. AS 05.15.070 is amended to read:

Sec. 05.15.070. EXAMINATION OF BOOKS AND RECORDS. The commis-  
sioner may examine or have examined the books and records of a per-  
mittee, an operator, a registered vendor, or a person licensed to  
manufacture or to distribute pull-tab games in the state. The commis-  
sioner may issue subpoenas for the attendance of witnesses and the  
production of books, records, and other documents."

Page 1, line 9:

Delete "Section 1"

Insert "Sec. 2"

Renumber the following bill sections accordingly.

Page 7, line 4:

Delete "6 and 7"

Insert "7 and 8"

Page 7, line 7:

11

Delete "6 and 7"

Insert "7 and 8"

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. MACLEAN

TO: CSHB 512(C&amp;RA)

Page 1, following line 8:

Insert a new bill section to read:

"\* Section 1. AS 05.15.115(b) is amended to read:

(b) The contract between an authorizing permittee and an operator must include the amount and form of compensation to be paid to the operator, the term of the contract, the activities to be conducted by the operator on behalf of the permittee, the location where the activities are to be conducted, the name and address of the member in charge, and other provisions the department may require. The contract must provide that an operator conducting pull-tab games on behalf of a permittee shall return no less than 40 percent of the ideal net to the permittee."

Page 1, line 9:

Delete "Section 1"

Insert "Sec. 2"

Renumber the following bill sections accordingly.

Page 7, line 4:

Delete "6 and 7"

Insert "7 and 8"

Page 7, line 7:

Delete "6 and 7"

Insert "7 and 8"

#4

6-2127Ed  
Gaguine

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. MACLEAN

TO: CSHB 512(C&RA)

Page 1, following line 8:

Insert a new bill section to read:

"\* Section 1. AS 05.15.128(a) is amended to read:

(a) The department shall revoke the license of an operator who does not

(1) report an adjusted gross income of at least 15 percent of gross income for two consecutive quarters based on the total operation of the operator; [OR]

(2) pay to each authorizing permittee for two consecutive quarters at least 15 percent of the adjusted gross income, as determined under (1) of this subsection, received from activities other than pull-tab games conducted on behalf of the authorizing permittee; or

(3) pay to each authorizing permittee for two consecutive quarters at least 40 percent of the ideal net received from pull-tab games conducted on behalf of the authorizing permittee."

Page 1, line 9:

Delete "Section 1"

Insert "Sec. 2"

15

Renumber the following bill sections accordingly.

Page 7, line 4:

Delete "6 and 7"

Insert "7 and 8"

Page 7, line 7:

Delete "6 and 7"

Insert "7 and 8"

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. MACLEAN

TO: CSHB 512 (C&RA)

Page 2, line 26:

Delete "a new section"

Insert "new sections"

Page 5, following line 5:

Insert a new section to read:

"Sec. 05.15.189. JAR TICKETS PROHIBITED. Jar tickets may not be manufactured, distributed, or sold in the state. The department shall adopt regulations establishing which pull-tabs are jar tickets."

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. MACLEAN

TO: CSHB 512 (C&amp;RA)

Page 2, line 17:

Delete "or"

Page 2, line 18, following "location":

Insert "; or

(4) hold a permit or an operator's license under this chapter"



# KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA 99669  
PHONE (907) 262-4441

DON GILMAN  
MAYOR

## POSITION PAPER SB 501 RELATING TO CHARITABLE GAMING Presented by Marla Huss

The Kenai Peninsula Borough would like to submit the following comments related to SB 501, relating to charitable gaming. While the Department of Commerce and Economic Development has addressed many of our concerns regarding regulation of vendors in gaming sales compatible with the regulations pertaining to operators, there are two points which have not been addressed that we request be considered in drafting a committee substitute.

1. Neither the original version of the bill, nor draft 6-2220E which is being considered by the committee, allows municipalities to regulate or ban vendors as the current statutes allow for operators.

#7 AS 5.15.124 currently allows municipalities to regulate or prohibit operators within the municipality. The legislation before you does not permit a municipality to exercise that local option against vendors, and thus against the further commercialization and proliferation of gaming sales, which is the purpose for the current "local option" statute. Legislation passed without this local option could pose an equal protection problem for the state and/or a municipality, who may have exercised the local option for a ban on operators.

The Kenai Peninsula Borough requests that language be added allowing this local option for vendors.

#8 2. There is no notice requirement to local municipalities in either the bill or draft CS. Currently, under AS 5.15.030, a permittee and an operator are required to give notice to the municipality that they are applying for a license from the state. The borough requests that notice be given to a municipality at the time a permittee contracts with a vendor. Notice requirements are necessary to enforce local codes and regulations.

PERMITTEE/OPERATOR RELATIONSHIP

Full-Tab Net Proceeds

Comparable Analysis

CURRENT LAW

(For purposes of discussion, the chart below is based on a gross handle of \$1,000.00, i.e., 1,000 pull-tabs sold at \$1.00 each.)

	Prize Payout 55%	Prize Payout 75%	Prize Payout 85%
Gross Receipts	\$1,000.00	\$1,000.00	\$1,000.00
Prize Payout	<u>[550.00]</u>	<u>[750.00]</u>	<u>[850.00]</u>
<u>IDEAL NET</u>	450.00	250.00	150.00
<u>1/ Operator Gross Profit</u> (limited to 85% of AGI)	<u>382.50</u>	<u>212.50</u>	<u>127.50</u>
<u>2/ NET PROCEEDS TO PERMITTEE</u> (minimum required return)	<u>\$ 67.50</u>	<u>\$ 37.50</u>	<u>\$ 22.50</u>

Footnotes:

- 1/ Current Law - provides the operator must report an adjusted gross of 15% and pay at least 15% of the adjusted gross to the permittee.  
AS 05.15.128(1) and (2)
- 2/ Adjusted Gross Income is defined as the gross income less the prizes awarded and any state, federal and municipal income taxes paid or owed.  
AS 05.15.210(1)

PERMITTEE/VENDOR RELATIONSHIP

Pull-Tab Net Proceeds

Comparable Analysis

PROPOSED AMENDMENT P.E: VENDOR COMPENSATION

(For purposes of discussion, the chart below is based on a gross handle of \$1,000.00, i.e., 1,000 pull-tabs sold at \$1.00 each.)

	Prize Payout 55%	Prize Payout 75%	Prize Payout 85%
Gross Receipts	\$1,000.00	\$1,000.00	\$1,000.00
Prize Payout	<u>[550.00]</u>	<u>[750.00]</u>	<u>[850.00]</u>
<u>IDEAL NET</u>	450.00	250.00	150.00
<u>1/ Vendor Compensation</u> (maximum 30% of ideal net) Proposed: Sec. 9, AS 05.15.188(f)	<u>135.00</u>	<u>75.00</u>	<u>45.00</u>
<u>2/ GROSS PROCEEDS TO PERMITTEE</u> (as required)	<u>\$ 315.00</u>	<u>\$ 175.00</u>	<u>\$ 105.00</u>

Footnotes:

- 1/ CS-SB-501  
Section 9, AS 05.15.188(f): If a permittee contracts with the vendor, the contract must provide that the permittee will receive no less than 70% of the ideal net.
- 2/ Permittee gross revenue is reduced by the cost of pull-tabs (approximately \$.02 each) and the 3% pull-tab tax (computed on ideal net) to arrive at Permittee Net Proceeds.

Example Utilizes 75% Prize Payout

Gross Proceeds to Permittee	175.00
Cost of Tabs (\$.02 x 1,000)	[20.00]
Tax (3% x \$250.00)	<u>[7.50]</u>
NET PROCEEDS	<u>\$ 147.50</u>

PERMITTEE (40%)/OPERATOR (60%) RELATIONSHIP

Pull-Tab Net Proceeds

Comparable Analysis

PROPOSED AMENDMENT RE: OPERATOR MUST PAY 40% OF IDEAL NET TO THE PERMITTEE

(For purposes of discussion, the chart below is based on a gross handle of \$1,000.00, i.e., 1,000 pull-tabs sold at \$1.00 each.)

	Prize Payout 55%	Prize Payout 75%	Prize Payout 85%
Gross Receipts	\$1,000.00	\$1,000.00	\$1,000.00
Prize Payout	<u>[550.00]</u>	<u>[750.00]</u>	<u>[850.00]</u>
<u>IDEAL NET</u>	450.00	250.00	150.00
<u>Operators Gross Profit</u> (limited to 60% of ideal net) Proposed: Sec. 3, AS 05.15.115(b) and Sec. 5, AS 05.15.128(a)	<u>270.00</u>	<u>150.00</u>	<u>90.00</u>
<u>NET PROCEEDS TO PERMITTEE</u> (as required)	<u>\$ 180.00</u>	<u>\$ 100.00</u>	<u>\$ 60.00</u>

PERMITTEE (40%) AND OPERATOR/VENDOR (60%) RELATIONSHIP

Pull-Tab Net Proceeds

Comparable Analysis

PROPOSED AMENDMENTS

(For purposes of discussion, the chart below is based on a gross handle of \$1,000.00, i.e., 1,000 pull-tabs sold at \$1.00 each.)

	Prize Payout 55%	Prize Payout 75%	Prize Payout 85%
Gross Receipts	\$1,000.00	\$1,000.00	\$1,000.00
Prize Payout	<u>[550.00]</u>	<u>[750.00]</u>	<u>[850.00]</u>
<u>IDEAL NET</u>	450.00	250.00	150.00
<u>Operators Gross Profit</u> (limited to 60% of ideal net) Proposed: Sec. 3, AS 05.15.115(b)	<u>270.00</u>	<u>150.00</u>	<u>90.00</u>
<u>Vendors Compensation</u>	?	?	?
<u>Operators Adjusted Profit</u>	?	?	?
<u>NET PROCEEDS TO PERMITTEE</u> (as required)	<u>\$ 180.00</u>	<u>\$ 100.00</u>	<u>\$ 60.00</u>

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: An Act relating to the retail sale of pull-tabs, tickets, and cards  
Sponsor: Reps. Boucher and Bover  
Requestor: House C&RA

Agency Affected: Commerce & Economic Dev.  
BRU: Occupational Licensing  
Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary) The bill authorizes a person other than a permittee or operator to sell the pull-tabs, tickets, and cards necessary to conduct a charitable gaming activity under AS 05.15.100 provided the person is authorized by a written contract with the permittee or operator. The bill requires the department to be notified within five days of commencement of sales by a person other than a permittee or operator. (CONTINUED)

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144  
Division: Occupational Licensing Date: 2/27/90

Approved by Commissioner: Larry Merculieff Date: 2/27/90  
Agency: Department of Commerce & Economic Development

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION OF FISCAL NOTE ANALYSIS - HB 512

Current resources for the gaming program are inadequate to fully regulate charitable gaming in the state. There are over 1,000 gaming permittees, operators, and distributors authorized to conduct gaming activities in an industry which generates millions of dollars each year.

If the gaming program is to regulate gaming activities by persons other than a permittee or operator (conceivably another 2,000 individuals) and beef up its enforcement over current gaming activities, additional staff resources are definitely needed. In the Division of Occupational Licensing's original FY 91 budget request and its budget amendments, the division has requested funding for a total of six positions, only four of which are new (the other two are taken from permanent part-time to permanent full-time). The positions include: two PFT Investigators, one PPT Licensing Examiner, one PPT Clerk Typist, one PPT Data Processing Clerk, and one PFT Attorney. The zero fiscal note attached to HB 512 assumes authorization of the division's budget request.

TESTIMONY OF REPRESENTATIVE H.A. 'RED' BOUCHER ON HB 512

House Bill 512 was introduced at the request of several individuals involved in gaming activities. The intent of this legislation is to start the process of addressing the third party vendor issue and open up the channels to debate the pros and cons regarding charitable gaming in Alaska.

Charities and non-profit corporations have been selling pull-tabs through retail stores since the gaming act was passed three years ago. The statute does not prohibit retail sales, in other words the law does not detail conditions under which pull tabs can be sold by third party vendors.

The area of vendor sales must certainly be addressed and I am in agreement with the need to take a close and careful look at tightening up regulations regarding third party vendor sales. The result of debate over this legislation will hopefully allow charitable organizations to sustain themselves, particularly with the current down turn in other revenue sources.

Thank you for your time.

House Bill 512: "An Act relating to the retail sale of pull-tabs, tickets, and cards for charitable gaming activities."

The department was given responsibility for administration of the Alaska Gaming Reform Act in July of 1989. Since that time, the department has been actively engaged bringing stability and equality of enforcement to the charitable gaming industry.

One of the areas of concern to the department has been the so-called "third party vendor" issue. Presently, across the state, both permittees and operators have turned to vendors (e.g., retail outlets, bars, restaurants) to sell pull-tabs on their behalf. The department has found no specific statutory authorization for these vendor sales. As a result, the department gave notice late last year of its belief that legislation was needed if vendor sales were to be allowed.

Of major concern to the department has been the unregulated nature of vendor sales. The concerns discussed below have prompted our belief that if vendor participation in charitable gaming is to be authorized by the Legislature, then it must be strictly regulated.

1. Competition for prime vendor locations has increased the amount of compensation charged permittees by vendors to the detriment of the charities (some vendors are now asking and getting in excess of 50% of pull-tab proceeds). Limits must be placed on the amount of allowable vendor compensation in order to both eliminate "bidding" for locations by permit holders and ensure that an acceptable share of gaming proceeds is returned to those nonprofit organizations issued gaming permits. Most other states do limit the amount of compensation a vendor can charge.
2. There is no penalty or regulation presently in place that penalizes the unscrupulous vendor. We have become increasingly aware of cases where vendors have failed to pay permittees any share of the proceeds from the sale of pull-tabs. Under the present gaming law, there is no protection for the permittee in such cases. The permittee must sue the vendor to collect the gaming proceeds due the permittee.
3. Vendors have shouldered responsibility for ordering and purchasing pull-tabs from pull-tab distributors, bypassing the permittee. As a result, permittees have lost accountability for the pull-tab sales conducted under the auspices of their permits. We have investigated cases in which a permittee was unaware of pull-tab purchases made by its vendor. In addition, we recently had a case in which a vendor continued to order pull-tabs from a distributor after the permittee had removed its permit from the vendor's premises because the distributor was unaware of the permittee's action to end its relationship with that vendor.

Not surprisingly then, the department approaches a review of HB 512 with the consequences of unregulated vendor activity at the forefront of its thoughts. From that perspective, HB 512 clearly lacks the kind of specific regulatory language needed to provide justifiable controls over this very active area of charitable gaming and would curtail our ability to properly administer the program.

In addition, we question the bill because its language is so broad that the bill, however, unintentionally, considerably expands the list of persons who could become involved in charitable gaming in this state.

If the title of a bill is any indication of its scope, then HB 512's title suggests it only addresses the "retail" sale of pull-tabs, tickets, and cards. However, no limitation to retail businesses is actually found in the proposed new section. Indeed, it simply says "a person," other than a permittee or an operator, may sell pull-tabs or other gaming tickets and cards. Under state law the word "person" is quite broad and encompasses any and all corporations, businesses, associations, partnerships, natural persons, etc., regardless of residency.

Thus, under the proposed language of HB 512, there would be no reason, for instance, for anyone to become licensed as an operator: they could simply function as a sales vendor. Also, organizations denied a charitable gaming permit because, for example, they did not meet the criteria for a permit could simply opt instead to sell gaming pull-tabs, tickets, or cards for those nonprofit organizations that did have a permit. Under this scenario, such organizations could charge the permittee a percentage of the proceeds for their sales efforts equal to or more than the permittee might receive (which is already happening), thus, thoroughly defeating the intent of the Gaming Reform Act.

This bill, as presently written, would effectively do away with any justification for calling the activities we presently authorize in the state as "charitable" gaming activities. While we do not believe this was the intent of the drafters of this legislation, the department cannot support the bill in its present form for these reasons.

The department understands, however, that there is broad permittee and operator support for recognition of a vendor class. Certainly, the testimony the department heard in mid-December regarding its position on vendor sales made it very clear that eliminating or severely restricting the vendor class would drastically reduce the gaming proceeds presently collected by organizations granted charitable gaming permits.

Given that a vendor bill has been introduced, and assuming that the broad support evidenced for this issue means that some legislative recognition of a vendor class is forthcoming, the department has attached to this position paper draft language that reflects the department's perspective on the issue of vendor sales.

Most importantly, please note that the department's proposed language limits vendor sales to the sale of pull-tabs.

To allow vendors to get into the business of selling more than pull-tabs will effectively guarantee the additional proliferation of gaming activities in bars, restaurants, retail stores, and "gaming parlors" in malls or other storefronts throughout Alaska.

At this point in time, permittees and operators have only expressed a desire to see pull-tab sales by vendors authorized. We see no need to greatly expand the role of vendor sales in this state by including vendor sales for any and all games beyond those vendor sales already recognized and authorized under AS 05.15 (i.e., for ice classics).

The department's proposals include:

1. vendor registration by the permittee or operator;
2. issuance of an endorsement to a permittee's or operator's license that authorizes a vendor to sell pull-tabs on behalf of the permittee or operator;
3. a cap of 30% of ideal net on the amount that a vendor can charge a permittee or operator to compensate the vendor for selling pull-tabs on their behalf;
4. the requirement that the vendor pay the agreed upon amount of profit to the permittee or operator at the time of delivery of a pull-tab series to the vendor for sale;
5. payment into the charitable gaming surety fund by the registered vendor;
6. the requirement that a vendor and permittee or operator enter into a written contract;
7. the provision that only a permittee or operator may supply pull-tabs to a vendor;
8. a provision prohibiting an employee of a vendor from purchasing a pull-tab from any series sold by the vendor;
9. a prohibition that the owner or manager of a vendor who is also a member of permittee organization or a municipal officer may not enter into a contract to sell pull-tabs on behalf of that organization or municipality for compensation;
10. provisions to clarify that a distributor may not deal directly with a vendor; and

11. provisions giving the department cease and desist authority when violations of the gaming act have occurred or are about to occur.

We believe that a bill that contains the provisions outlined above will meet the department's concerns for the proper regulation of a vendor class while also maintaining primary responsibility for the state's charitable gaming activity with the licensed permittee and operator.

We urge your consideration of the attached language. A bill which included language substantially similar to that found in the attached draft and which covered the areas described above would at least address the department's concerns sufficiently for the department to go on record as unopposed to legislative recognition of vendor sales.



\_\_\_\_\_  
Larry Mercurieff, Commissioner

Date: 2-27-90

LM/RPB/dgl6388D  
22790a

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

\* Section 1. AS 05.15 is amended by adding a new section to article 2 to read:

Sec. 05.15.188. PULL-TAB SALES BY VENDORS ON BEHALF OF PERMITTEES AND OPERATORS; VENDOR REGISTRATION, ENDORSEMENT. (a) A permittee or operator may contract with a vendor to sell pull-tabs on behalf of a permittee or operator.

(b) A permittee or operator that contracts with a vendor to sell pull-tabs on the permittee's or operator's behalf shall first register the vendor with the department on a form prescribed by the department. The annual vendor registration fee is \$50.

(c) The department shall act upon an initial vendor registration within 10 working days of receipt of the registration form from a permittee or operator.

(d) Upon approval of the vendor registration, the department will issue an endorsement to the permittee's permit or the operator's license that authorizes the conduct of pull-tab sales at that vendor location.

(e) The endorsement issued under (d) of this section is an extension of the permittee's or operator's privilege under AS 05.15.100 to conduct pull-tab sales in this state. A vendor may not sell a pull-tab series until the permit or license containing the endorsement for the new vendor location has been posted by the permittee or operator in the registered vendor establishment. The endorsed permit or license must be clearly visible to the gaming public.

(f) A separate endorsement shall be issued for each vendor location. It is the responsibility of the permittee or operator to inform the department when it changes a vendor location. A permittee

or operator must return to the department the endorsed permit or license of a vendor that is no longer selling pull-tabs on behalf of the permittee or operator. Failure to inform the department of a change in vendor location, or to return the endorsed permit or license to the department after a vendor change, may constitute grounds for the suspension of a permittee's permit or an operator's license.

(g) The vendor registration required by (b) of this section must be accompanied by a contribution from the vendor to the charitable gaming surety fund established in AS 05.15.220. The contribution must be drawn on the checking account of the vendor and may not be paid by the permittee or operator on the vendor's behalf.

(h) At the time a permittee or operator annually renews its permit or license, the registration of all locations where a vendor is selling pull-tabs on the permittee's or operator's behalf must also be renewed. In addition, in accordance with AS 05.15.230, the permittee or operator shall forward, with each vendor registration renewal, that vendor's annual contribution to the charitable gaming surety fund.

(i) The permittee or operator that uses a vendor to sell pull-tabs on its behalf shall enter into a written contract with that vendor. The contract is subject to review by the department. If the contract contains agreements counter to the provisions of this chapter or the regulations adopted under it, the department may declare the contract void.

(j) A vendor may not purchase a pull-tab series from a licensed distributor. Only a permittee's member-in-charge or an operator may directly supply a pull-tab series to a registered vendor for sale by that vendor on behalf of the permittee or operator.

(k) A permittee or operator may not compensate a vendor more than 30% of the ideal net to sell pull-tabs on the permittee's or operator's behalf.

(l) An amount equal to the ideal net less the compensation paid to the vendor must be paid by the vendor at the time the member-in-charge or operator delivers a pull-tab series to the vendor for sale. The amount required to be paid by the vendor under this subsection must be paid by check and must be deposited by the permittee or operator directly into its gaming checking account.

(m) A vendor that fails to meet its contractual agreement with a permittee or operator, fails to comply with a requirement of this chapter or a regulation adopted under it, or the vendor or vendor owner or manager that is convicted of forgery, fraud, theft, or a crime of dishonesty related to the activities governed by this chapter, shall be prohibited for a period of five years from any further involvement in any activity authorized by or conducted under AS 05.15.

(n) An employee of a registered vendor may not purchase a pull-tab from any pull-tab series sold by that vendor. A person who knowingly violates this subsection is guilty of a class B misdemeanor.

(o) When the owner or manager of a registered vendor is also a member of a qualified organization issued a permit under this chapter, then the vendor may not enter into a contract with that qualified organization to sell pull-tabs for compensation. When an owner or manager of a registered vendor is also an elected municipal officer or holds a managerial position with a municipality, then the vendor may not enter into a contract with that municipality to sell pull-tabs for compensation.

\* Sec. 2. AS 05.15.183 is amended by adding a new subsection to read:

(e) A distributor may not

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

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

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

\*Sec. 3. AS 05.15.210 is amended by adding new paragraphs to read:

(35) "ideal net" means an amount equal to the total amount of receipts that would be received if every individual pull-tab ticket in a series were sold at face value, less the prizes to be awarded for that series;

(36) "permittee" means either a municipality or qualified organization;

(37) "vendor" means a business whose primary activity is not regulated by AS 05.15 but which is engaged in the sale of pull-tabs on behalf of a permittee or operator and holds a business license under AS 43.70 and is

(i) a retail establishment;

(ii) an eating establishment; or

(iii) an establishment licensed under AS 04.11.

\* Sec. 4. AS 05.15 is amended by adding a new section to article 3 to read:

Sec. 05.15.195. CEASE AND DESIST ORDER. (a) If the commissioner of commerce and economic development determines that a person has engaged in or is about to engage in an act or practice in violation of a provision of this chapter or a regulation adopted under it, the commissioner may issue a cease and desist order prohibiting further action by the person. The cease and desist order remains in effect

until the person has submitted evidence acceptable to the commissioner showing that the violation has been corrected.

(b) A person affected by an order issued under (a) of this section may seek equitable relief preventing the commissioner of commerce and economic development from enforcing the order.

**Testimony Before The  
Community and Regional Affairs Committee  
Alaska House of Representatives  
Sixteenth Legislature - Second Session**

February 27, 1990

**Representative Eileen MacLean, Chair and Members:**

**Subject: Testimony concerning HB-512**

I'm Roger Cunningham, a Licensed Pull-Tab Distributor from Wasilla, and President of the Coalition for Non-Profit Gaming. I am here today on their behalf to offer full and complete support for HB-512.

**COALITION FOR NON-PROFIT GAMING**

**Formation, Purpose, Make-up:**

The Coalition for Non-profit Gaming was formed in the fall of 1989 when the Department of Commerce announced in a 7-page letter that it had determined that the sale of pull-tabs by merchants had not been contemplated in the Gaming Reform Act of 1988. I will offer testimony in a few minutes as to how the Department of Commerce reached its faulty conclusion.

Merchants who sell pull-tabs in cooperation with a non-profit or charity have become known as "3rd Party Vendors." The Coalition's sole purpose is to PROTECT the "3rd Party Vendor" relationship, an extremely valuable and vital fundraising method for non-profit groups.

The Coalition is composed of members from each segment of the gaming community:

**Permitees:**

The Charities and Non-profit groups who hold Games of Skill and Chance Permits issued by the Department of Commerce and Economic Development.

- Vendor:** Merchants who have entered into agreements to sell pull-tabs on behalf of non-profits/charities.
- Distributors:** Businesses licensed by the state to sell the paper product "pull-tabs." Licensed Distributors sell only to holders of a valid Gaming Permit.
- Operators:** individuals licensed by the state to "manage" or conduct gaming on behalf of a permittee, remitting net proceeds monthly.

Three-quarters of the membership is made up of permittees. The balance is composed of the three other segments of the gaming community.

In order to assure that the interests of the permittees are foremost in the work of the Coalition, the Executive Board is composed of 3 permittees, 1 vendor, 1 distributor, and 1 operator.

From this diverse group, with many seemingly conflicting interests and points of view, there is one major point on which we all agree:

*For the continued financial well-being of non-profits and charities across the State of Alaska, the 3rd-party vendor relationship must be recognized in statute and allowed to continue. This is the only purpose of HB-512*

By November, 1989, the Coalition for Non-profit Gaming had adopted By-Laws, elected officers and produced Position Paper #1 which I have attached to this testimony.

### **Background of the Gaming Reform Act**

House Bill 299, which became the Alaska Gaming Reform Act of 1988, was an effort by the legislature to REFORM statutes enacted in 1984. The primary focus of the REFORM ACT was to PROTECT the interests of NON-PROFITS AND CHARITIES from abuses that were occurring primarily in the bingo industry and by operators. Bonding and licensing of operators was the primary feature of the Gaming Reform Act.

The 3rd Party Vendor issue was not addressed at that time because THEN as now, 3RD PARTY VENDOR relationships were not a major source of abuse which often left the non-profits and charities with little profit to show for their effort. In other words, in a properly conducted 3rd party relationship, the non-profit/charity gets its rightful share of the profits derived from the sale of pull-tabs at the merchants' location.

### Interpretation by the Department of Commerce

In a 7-page letter dated September 27, 1989, Commissioner Mercurieff took aim on the "3rd Party Vendor" stating that "The Gaming Reform Act of 1988 did not contemplate or authorize a pull-tab 'vendor' class."

At face value, this is only a partial truth based on the reasoning in the preceding paragraphs. Recent history shows plainly that legislators and regulators alike, acknowledged the existence of "3rd Party Vendors" before the reform act was made law. Further, the Department of Revenue acknowledged their existence when the issue of "vendor compensation" was the subject of proposed regulation by the Department of Revenue months later.

**Point 1:** The Nenana Ice Classic IS specifically mentioned in statute, along with other similar fundraising activities:

The Nenana Ice Classic is:

- A state-wide fundraising activity,
- Conducted by members, without the services of an operator,
- Utilizes 3RD PARTY VENDORS who are compensated.

**Point 2:** In proposed regulations issued by the Department of Revenue on April 4, 1989:

- 12 AAC 34.380 attempted to establish a

limit on the compensation allowable to 3RD PARTY VENDORS. Specifically mentioned by example were "employees of a restaurant (who) sold a pull-tab series on behalf of a permittee".

Within 2 months of the transfer of Games of Skill and Chance to the Department of Commerce, the commissioner, acting without the benefit of any broad-based community input, nor gaming experience of any long-standing, proposed the OUTRIGHT BAN ON 3RD PARTY VENDORS by emergency regulations.

Permittees from across the state rallied to protest the commissioner's lack of understanding. This miscarriage was successfully blocked by Lt. Governor McAlpine who concluded that no emergency existed.

Public hearings grudgingly scheduled for December, 1989.

Quoting from the text of Mr. Mercurieff's prepared remarks to the Anchorage Chamber of Commerce on November 27th, he said:

*" . . . and no matter what, the Department is going to get clobbered. We knew that going in. When the Department of Revenue (earlier) attempted to provide order where chaos existed, they got clobbered . . . "*

The Department of Revenue, before handing over control of gaming to Commerce, produced 64 pages of regulations without ever getting to the meat of the subject. They were dismayed by the nearly hostile reaction they received when public hearings were held in May.

I submit to you that the reason the Department of Commerce (and the Department of Revenue, earlier) GOT CLOBBERED . . . is the simple fact that THEY FAILED TO LISTEN TO PERMITEES whose interest, after all, was supposed to be protected by the Gaming Reform Act . . . not regulated into oblivion by misguided regulation.

In the hearings held in December by Commerce, witness after witness testified that the 3RD PARTY VENDOR relationship is the backbone of charitable fundraising in Alaska. Many witnesses drew a comparison of the net result of placing their permit with a commercial bingo

operator vs: the net result they have experienced with 3rd party vendors.

The Director of the Division of Occupational Licensing, Randall Burns, has said publicly that support for the 3rd party vendor relationship was "OVERWHELMING". He and the commissioner have specifically asked that the legislature address this question and HB-512 is the Coalition's response.

### **House Bill 512**

HB-512 is a one-page bill, direct and to-the-point. It says simply that pull-tabs may be sold on behalf of a permittee by others so long as a contract or written agreement exists between the parties. The bill has no other meaning and no hidden agenda.

I urge that the House Community and Regional Affairs Committee act favorably to give charities and non-profits full legal status to conduct fundraising with "3rd Party Vendors", an arrangement that has existed for the mutual benefit of all participants since before the enactment of the Gaming Reform Act of 1988.

Legal status for "3rd Party Vendors" is not without precedent. In 32 of the 33 states which now conduct state lotteries, "3rd Party Vendors" are utilized to provide tickets to the buying public. They are commonly referred to as "RETAILERS".

I have attached a two-page summary produced in January, 1990 by the Public Gaming Research Institute which lists the states conducting lotteries, the number of RETAILERS engaged, and the sales commission paid by the various states. There are currently 147,738 retailers in 32 states.

Sales of Charitable Gaming products by RETAILERS, pull-tabs, in this instance, is a legitimate, legal fundraising method in 32 other states today. There is not one solid reason why Alaska should not fully legitimize this activity for the mutual benefit of non-profits, charities, retailers, and the public who have shown a strong desire to participate.

For clarification or additional information:

Roger Cunningham

Bill's Distributing of Alaska

P.O. Box 874731

Wasilla, Ak 99687

373-1500 or Toll-Free 1-800 478-4263

# CNG

Coalition  
for  
Non-profit  
Gaming

## Position Paper # 1

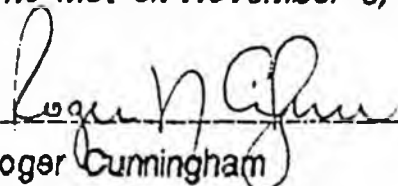
*The Coalition for Non-profit Gaming, CNG, after careful deliberation by its Steering Committee, and ratification by its general membership, takes the following position(s) on issues concerning future direction of gaming regulation and legislation:*

1. That an *Agent* license class be created by the legislature which establishes accountability between the *Agent* and the Operator or Permittee with whom the *Agent* conducts pull-tab activities.
2. That each *Agent* be required to register with the state each location (physical address) where pull-tab activities are conducted.
3. That Operators and/or Permittees be required to complete an *Agent Registration* form provided by the Department of Commerce and Economic Development on behalf of each agent location.
4. That, in addition to the annual registration, each entity, i.e.: Sole Proprietor, Partnership, Joint Venture, or Corporation, acting as an *Agent*, shall post into a *Surety Fund* established by the state, \$100 annually *until the fund is fully established.*

page 2. Position Paper #1

5. That the amount of the *surety fund* deposited by each Agent shall be adjusted annually based on the prior year's history of claims against the fund.
6. That AS 05.15.122 (b) (5), bonding remain in effect in its current form, as a requirement for an Operator's license.
7. That self-directed Permittees *who do not engage an operator* shall not be required to bond against their own losses.
8. That *Agents* of Operators shall be supplied pull-tabs by their Operator who, in turn, purchases from a Licensed Distributor.
9. That *Agents* of a Permittee shall be supplied pull-tabs by the Permittee's Member-in-Charge who, in turn, purchases from a Licensed Distributor.
10. That a ceiling limit be established for agent compensation.
11. That neither Operators nor Permittees be limited as to the number of *Agents* with whom they conduct pull-tab activity.
12. That current statutes adequately limit each permittee's annual activity (AS 05.15.180 (g)) and therefore, no further limit should be placed on the number of *Agents* engaged by a permittee (nor on an operator on behalf of a permittee).

*I certify that the foregoing represents the consensus of CNG members who met on November 8, 1989 to amend and ratify this position paper.*

  
-----  
Roger Cunningham  
Interim Chairman

# LOTTERY UPDATE

PUBLIC GAMING INTERNATIONAL

## THE U.S. RETAIL CONNECTION

STATE	SALES DISTRICTS & OFFICES	# FIELD/ SALES REPS	METHOD OF TICKET DISTRIB.	TOTAL # RETAILERS	TOTAL # ON-LINE RETAILERS
ARIZONA	3 DISTRICTS 1 MAIN OFFICE 1 SATELLITE	20 (+ 3 RELIEF REPS)	FIELD REPS	2,289	1,760
CALIFORNIA	12 DISTRICTS 4 REGIONAL OFFICES 2 REG. HDQTS.	205 DSRs	COURIER	20,000	8,350
COLORADO	4 DISTRICTS 4 REGIONAL OFF.	28 DSRs	FIELD REPS	2,719	1,463
CONNECTICUT	32 SALES DISTRICTS 8 REGIONS 1 MAIN OFFICE	40	FIELD REPS	3,600	2,400
DELAWARE	4 DISTRICTS 1 MAIN OFFICE	4	COURIER	496	265
D.C.	8 WARDS 1 MAIN OFFICE	8	2 DISTRICT CENTERS	558	527
FLORIDA	9 REGIONS 13 DISTRICTS	3 REG. MGRS. 13 DISTRICT MANAGERS + 202 SALES REPS	SALES REPS	14,775	7,500
IDAHO*	1 MAIN OFFICE	9 REPS 1 KEY ACCT. REP	UPS	1,388	300-450
ILLINOIS	2 DISTRICT 2 MAIN OFFICES 5 REGIONAL OFF.	65 (+ 15 COORDINATORS) 5 REG. MGRS.	SALES REPS (COURIER IN 1 COUNTY)	9,500	4,800
INDIANA*	8 REGIONAL OFFICES	81 SALES REPS	SALES REPS	7,000	0**
IOWA	5 SALES REGIONS	37	SALES REPS	3,600	1,100
KANSAS	4 REGIONAL OFFICES & HEADQUARTERS 30 ROUTES	30 FIELD REPS	SALES REPS	2,400	920
KENTUCKY	4 REGIONS 7 OFFICES	32 SALES REPS 7 SECTIONAL MGRS. 2 REG. MGRS. 1 STATE MGR.	COURIER	3,700	1,305
MAINE	11 TERRITORIES 1 MAIN OFFICE	13 (INCLUDES TELEMKTG STAFF)	FIELD REPS	1,600	915
MARYLAND	3 DISTRICTS 1 MAIN OFFICE	18 REPS + 3 MANAGERS	COURIER	2,114	1,737
MASSACHUSETTS	5 DISTRICTS 1 MAIN OFFICE 5 REGIONAL OFF.	50 REPS + 5 MANAGERS	COURIER + FIELD REPS	6,100	5,406
MICHIGAN	1 MAIN OFF. 7 REGIONAL OFF. 8 REGIONS	60 DISTRICT MANAGERS	COURIER	8,700	9,800
MINNESOTA	8 REGIONS 6 OFFICES	N/A	COURIER	N/A	N/A
MISSOURI	4 DISTRICTS 1 HEADQUARTERS 3 REGIONAL OFF.	43 SALES REPS + 9 TELEMKTG. REPS	SALES REPS	4,100	1,430
MONTANA	9 REGIONS 1 LOTTERY OFFICE	9 REPS	TELEMKTG. & FIELD REPS	850	250
NEW HAMPSHIRE	14 SALES AREAS 1 MAIN OFFICE 2 SATELLITE OFF.	15 REPS	FIELD REPS	1,300	750
NEW JERSEY	6 DISTRICTS	30 REPS + 6 MANAGERS	COURIER	5,000	5,000
OHIO	3 REGIONAL OFFICES 30 DISTRICTS	30 SALES REPS	SALES REPS	8,000	4,615

\*On-line to begin in Idaho 2/90. On-line to begin in Indiana 5/90

## LOTTERY UPDATE

PUBLIC GAMING INTERNATIONAL

### THE U.S. RETAIL CONNECTION (cont.)

STATE	SALES DISTRICTS & OFFICES	# FIELD SALES REPS	METHOD OF TICKET DISTRIB.	TOTAL # RETAILERS	TOTAL # ON-LINE RETAILERS
OREGON	1 MAIN OFFICE	25 REPS + 4 REGIONAL MGRS.	COURIER	3,600	1,574
PENNSYLVANIA	6 AREAS 6 OFFICES	69 MKTG REPS	COURIER	8,761	3,438
RHODE ISLAND	MAIN OFFICE	8 REPS	FIELD REPS	1,088	825
SOUTH DAKOTA	3 REGIONS 4 OFFICES	13 FIELD REPS	FIELD REPS	1,152	0
VERMONT	6 DISTRICTS 1 MAIN OFFICE	6 REPS	FIELD REPS	780	250
VIRGINIA	7 REGL. OFFICES	54 REPS	COURIER	5,400	1,500
WASHINGTON	8 DISTRICTS 6 REGIONAL OFFICES	8 REGL. MGRS. 34 SALES REPS (+ 1 HALF-TIME)	FIELD REPS	3,400	973
WEST VIRGINIA	1 DISTRICT 1 MAIN OFFICE	10 FIELD REPS.	COURIER	1,604	846
WISCONSIN	5 DISTRICTS 5 OFFICES	47 SALES REPS 4 SALES MGRS.	FIELD REPS	5,000	1,450

### U.S. LOTTERY RETAIL AGENTS

STATE	POPULATION (In millions)	TOTAL # AGENTS	# ON-LINE TERMINALS	SALES COMMISSION BASE*
ARIZONA	3.2	2,289	1,760	6%
CALIFORNIA	27.0	20,000	8,350	5% CAT/4% PAT/6% Instant
COLORADO	3.3	2,719	1,463	5.5%
CONNECTICUT	3.2	3,800	2,400	5%
DELAWARE	0.6	496	265	5%
D.C.	0.6	558	549	6% instant/4% on-line
FLORIDA	11.7	11,775	7,500	5%
IDAHO	1.0	1,386	—	5%
ILLINOIS	11.6	9,500	4,800	5%
INDIANA	5.5	7,000	0**	5%
IOWA	2.9	3,800	1,100	5%
KANSAS	2.5	2,400	920	5%
KENTUCKY	3.7	3,700	1,305	5%
MAINE	1.2	1,600	915	8% instant/5% on-line
MARYLAND	4.5	2,114	1,707	4%
MASSACHUSETTS	5.8	6,100	5,406	5%+ bonuses
MICHIGAN	9.1	8,700	3,800	6%
MINNESOTA	4.3	N/A	N/A	5%
MISSOURI	5.1	4,100	1,430	5%
MONTANA	.8	850	250	5%+ bonuses
NEW HAMPSHIRE	1.0	1,300	800	5%
NEW JERSEY	7.6	5,000	5,000	5%
NEW YORK	17.8	9,766	6,010	6%
OHIO	10.8	3,300	4,815	5.5%
OREGON	2.7	3,600	1,574	5% (3% PAT)
PENNSYLVANIA	11.9	8,761	3,438	5%
RHODE ISLAND	.975	1,089	825	5% instant/8% on-line
SOUTH DAKOTA	.7	1,152	0	5%+ bonuses
VERMONT	0.5	780	250	5%
VIRGINIA	5.3	5,400	1,600	5%
WASHINGTON	4.6	3,400	973	5%
WEST VIRGINIA	1.9	1,504	846	5%
WISCONSIN	4.7	5,000	1,450	5%

**General Notes**

\* Does not include incentive programs or cashing fees

\*\* On-line to begin 5/90



# Alaska State Legislature

Please enter into the record my testimony to the House Committee on Community and Regional Affairs on HB 512 regarding Charitable Gaming/Sales agents for the teleconference of February 27, 1990.

I represent The Big Lake Lions Club, I am currently the vice president of that club. I also am the Judge Advocate for Post 35 of the American Legion and the American Legion Department of Alaska.

Lions Clubs are dedicated to service to the community. Many of our projects are to help those that do not have the ability to help themselves. There are only two ways that the Lions Clubs obtain financing for their various activities. donations are given to the Lions or a fund raiser is held.

In this economy, donations are few and far between. The permit to conduct gaming operations is just about the sole source of revenue in our community.

Last year the Department of Commerce came close to putting regulations in effect that would have totally shut down the income for the Lions club in Big Lake. Those regulations would have stopped us from using a "third party" or agent to sell pull tabs. We currently have an agreement with three local bars to sell our pull tabs for the benefit of the community. Our club pays the bars a space rent for the use of their establishment for the sale of our pull tabs.

Most of our Lion members operate businesses but, few, if any, operate the kind of business that would allow us to sell pull tabs directly.

I urge you on behalf of the thirty five members of the Big Lake Lions Club, the community of Big Lake and the more than four hundred members of Post 35 of the American Legion to pass legislation allowing the use of third party sales points or agents to sell our pull tabs so that we can continue to provide service and charitable activities to our community.

DANA R. STOKER  
Suite 100, Land Company Bldg.  
701 East Parks Highway  
Wasilla, Alaska 99687  
Telephone: (907) 373-6101

A handwritten signature in black ink, appearing to read "Dana R. Stoker".



# Alaska State Legislature

Please enter into the record my testimony to the H-C-R-A  
committee name

committee on HB 512, dated 2/27/90  
bill/subject

to: Chairman Foster  
fr: Matt Holmes, KFSK-FM, Petersburg  
re: clarification in testimony.

I do not recall who questioned me about the compensation paid to our third party vendors but I feel a clarification is necessary since the questioner (Rep. Kubine?) may have assumed that we pay 40% of the adjusted gross profit. I stated that we collect ~~the~~ appx. 60% of the adjusted gross profit. However, I neglected to point out that we pay appx. 15% of the A.G.P. in expenses. We then pay appx. 25% to our third party vendor. Therefore, our third party vendor is not paid 40%, but 25%. Thank you for this opportunity to correct my to know.

Signed: Matt Holmes

Testifier KFSK-FM public radio

Representing (Optional) Box 149, Petersburg

Address 772-3808

Phone No.

(1)



VETERANS OF FOREIGN WARS OF THE U.S.  
ROBERT L. SPENCER POST NO. 7056  
P.O. Box 404  
Kodiak, Alaska 99615

James L. Fisk, Jr.  
Senior Vice Commander  
POW-MIA Chairman  
Gaming Advisory Group for the  
State of Alaska

Post Office Box 2068  
Kodiak, Alaska 99615  
Phone: (907) 486-3959

Post 7056  
House Committee Chairman  
(charged with all pull tab responsibilities)

18 March 1990

Ms. Eileen Panigeo MacLean, Chair  
Community & Regional Affairs Committee  
Room 124  
Capitol Building  
Juneau, Alaska 99811

Subject: Testimony for House Bill 512

Dear Ms. MacLean,

After my most recent conversation with your Administrative Assistant, Renee, I advised her my wife is out of town and that I would attempt to complete my written test and oral response to the teleconference held on 9 March 1990.

Enclosed please find my packet containing this testimony.

I would appreciate it if you would assure that each legislative representative receives a copy of this written testimony.

Very truly yours,

  
James L. Fisk, Jr.  
JLF:nk

Enclosures: As stated

cc: Representative Dave Donley, Labor and Commerce Committee  
Senator Richard I. "Dick" Eliason, Labor and Commerce Committee

Reintroduced as testimony on 3/9/90  
To: Eileen Panigeo MacLean, Chair  
Referred: C&RA, and Labor & Commerce  
Attention: Dave Donley, Chairman

BY REP. BOUCHER, Boyer

IN THE HOUSE

HOUSE BILL NO. 512

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the retail sale of pull-tabs, tickets, and cards for charitable gaming activities."

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

\*Section 1. AS 05.15 is amended by adding a new section to article 2 to read:

Sec. 05.15.188. SALES BY PERSONS OTHER THAN PERMITTEES.  
A person other than a permittee may sell pull-tabs, tickets, and cards that are necessary to conduct activities authorized by AS 05.15.100(a) if the person is authorized to make sales by a written contract with a permittee or operator. The permittee shall notify the department within five days of the commencement of sales by a person under this section.

We are requesting that the following testimony be introduced as a possible amendment to House Bill 512.

My name is James L. Fisk, Jr. My address is: P.O. Box 2068, Kodiak, Alaska 99615. My phone number is: (907) 4863959. May I introduce myself and who I represent, and what the ultimate goals are to achieve a solid and sound HB 512. Madam Chair McLean and Chairman of other committees who may receive this testimony. This testimony is given on March 10, 1990 in Kodiak, Alaska.

Let me proceed with what I think as an individual representing the Kodiak Lions Club, the Rodeo State Fair Association, the Bayside Fire Department, the Veterans of Foreign Wars, the Veterans of Foreign Wars Auxiliary, the Baranoff Products and Kodiak Little League. Believe me when I say I represent those organizations as I am either a Charter Member or have served in the capacity of President or a Board Member. When I say that I represent the above organizations, I feel a deep internal commitment knowing that I have, and will continue to represent the welfare of those organizations and the other organizations throughout the State of Alaska to the utmost of my ability.

Let me start with a letter of what I think as what are the real issues for the Games of Chance and Skill administered by the Department of Commerce. When one associates with a new idea, of creating a dream - that dream has already been used in other states or other countries. They have experienced and suffered through the hardships. Don't let Alaska suffer those same hardships. Let's put together a foundation, a commission that will be responsive and face the issues of the gaming industry in Alaska. Let's clean it up and not wait like Nevada did. It took them 27 years to get the criminal element out of the gaming industry in Nevada.

We need a Gaming Commission in 1990. The job of a commission to see that funds gained from gaming activities go into the pockets mandated by the legislature. The gambling must be honest and the public is protected. All activities must be controlled and kept within the boundaries of good public policy. The heart of the gaming industry in Alaska must be to protect the public from being misled by those who operate the games. The commission must define rules and regulations to accomplish the following:

What are some of the problems? What are some of the solutions?

Problem: Inside information on the pull-tab industry.

Solution: Mark off the winners on the flare card. It is done in Washington. It cuts the odds for the permittees, the vendors, and the operators, but if that is what it takes to clean up Alaska - I say do it.

Problem: Winner pick out.

Solution: Manufacturing standards - those standards should be the highest NAFTM can deliver.

Problem: Lack of Randomization

Solution: Random testing. Protect the operators from cheating as initiated by the public.

Problem: Counterfeiting. Alaska has experienced a small though serious problem with counterfeiting, for it is out there. Don't ignore it.

Solution: Develop a secondary winner protection code such as a Trade Products Win Code. It is proven and it is successful. It take's 99% out of cheating, but nothing is 100% unless you ban the games of chance and skill in Alaska completely.

Insure the receipt of mandated income by the charity. Very important, insure the receipt of mandated income by the charity. Not 15% of the adjusted gross, but a minimum of 40% of the ideal net or gross profit. The remaining 60% will be state tax, pull-tab cost, and vendor share.

Problem: Mismanagement. In every organization there is going to be a little mismanagement. We could write laws from now to the end of the century, there is going to be some mismanagement.

Solution: An accounting system that insures appropriate profit to the charity and regulates audits by regulatory staff. If you need the people, tax the industry. Remember, audit by regulatory staff. That is important.

You could write a whole book, but if you have a stacked deck and you don't regulate it, you don't audit it, and you don't observe it, because you say you don't have the staff - forget it, it's over. You may as well say we will do the same as Nevada - let them infiltrate and then figure out how to get them out.

Mechanisms used to accomplish these goals include but are not limited to the following:

1. A clear concise criteria for construction of games. NAFTM approved manufacturers only with no exceptions.

2. A technical description and definition of the game. Break open games, pull-tabs, punch boards, lottery tickets, bingo cards, etc. A good definition of what they are and then a standard for each of those games. We are trained to write a standard to deal with the overall games. Let's deal with every game and every item. There is a difference between a \$1.00 bill, a \$20.00 bill, and a \$100.00 bill - there is a difference in every games.

I am enclosing the standards for break open tickets as an example. I am enclosing catalogues, I am enclosing the break open profit line and what to look for, I am enclosing pull-tabs (rippies-whatever you want to call them). Each game is different, each card is different, each flare card is different. All devices used in gaming should have an individual set of standards including opacity, randomization, and winner protection, etc.

Don't allow a manufacturer to write the rules if he doesn't belong to NAFTM. Allow the state to sit down with all NAFTM manufacturers and work as a team. Regulations should be drawn that provide a paper trail throughout the entire gaming process.

A process, such as Tabtrak, should give you instant control without a 30 to 60 day delay. This process should be developed by an Alaskan and workable by an Alaskan. This process should develop a paper trail for the entire gaming process including but not limited to the manufacturers, distributors, operators, permittees, and vendor locations. This paper trail follows from the manufacturers doorstep to the distributors door step, then on to the operator, permittee, or vendor identifying the date shipped, the cost, game description including color, game, and count, and serial number, as well as cost and tax to the operator and permittee. Tickets sold and prizes paid, identity of winners, and number of unsold tickets would be able to be immediately identified in a paper trail developed by Tabtrak.

Take a serious look at Tabtrak before permitting the State to develop a system when there is already a system successfully being used in the marketplace. I didn't believe in it because I felt I had the best computer program in the State - tractability and accountability from the date of invoice until the completion of the game to the quarterly to the annual reports, and to the membership of the permittees organization. Tabtrak will give the State investigators in the field, finger-tip control from a pay phone 24 hours a day at no cost to the State of Alaska. Let's give it a shot.

Licensing requirements should include, but not be limited to, licensing the charities, the distributors and their representatives, the operators and their representatives, the vendors and their representatives, and most of all the manufacturers and their representatives. This is where it starts, careful thought should be given to the criteria of who gets a license. If you license dishonest people you will have a regulatory problem from day one.

I say anyone who has had a conviction for gambling, convicted felon should never be involved in gambling or gaming - not after five years, not after ten years, but never as long as he has that conviction on his file. There is an exception, if one has an SIS then - that's the exception and that's only the exception. Once a "cheater", always a "cheater". Licensing dishonest people means dishonest accountability and dishonest tractability. A license to conduct gaming should be identified as a privilege - not a right. A license may be canceled for any reasonable threat to the integrity of the game. I say that if a license is canceled then it's gone. Once it's gone, it's gone forever.

If there is an infraction for not filing paperwork in timely response, that is a misdemeanor, it is not a threat to the integrity of the game. Finally, regulate the prize levels and cost of play to a \$500.00 prize limit on pull-tabs. Consider the level of security in break open tickets. There are tickets that are poorly manufactured and tickets which are premium of the stock. All tickets need to meet a certain standard. The security of the break open game must be the greatest integrity we can give the public consumers that play to know their money and their chances are under tight scrutiny.

There needs to be enough money to provide enforcement. The State must provide enforcement that is adequate in size - not 4 or 5 covering this State. If we need to tax 5% or 6% on the ideal net, let's do it, but let's get some effectiveness in the field. Let's stop this putting a handle on auditors and investigators. Let them do their job. They are protecting the constituents in the State of Alaska - the people who are putting their trust in the legislature. That is my opening statement.

Let me go to the State's position paper. Page three: The departments proposals include:

1. Vendor registration by permittee or operator.

Take the operator out of this position paper wherever it appears. The permittees, the vendors, the distributors, the manufacturers are one segment. The operators are a business entity. Every operator is doing it to make a profit. They would not crank up the pull-tab parlor or a bingo parlor with several thousand dollars invested if they weren't going to make a big return - more than what the vendor and the permittee is going to get. You are talking big scale

gambling. Let's divide them out, let's keep the operator as operators and keep them out of the bars and restaurants and grocery stores. Put those operators in a separate entity as a business enterprise.

The lottery is going to challenge that - they will not be able to go into 7-11 stores or grocery stores. There are three municipalities in the State of Alaska that ban operators - Kodiak, Kenai Peninsula, and Sitka. These communities are sending a clear message to the legislature that says, leave the charity's home town development for generating revenue as a revenue source with charity's who want to get involved - not operators. If Lottery Alaska wants to play in these establishments, let them license each establishment for lottery, let them foot the requirements, and let them pay the insurance. They are a business entity making big bucks otherwise they wouldn't be in business. That's a separate issue. If the State wants to run a lottery - let them do it, but let's divide the operators from the permittees and vendors.

2. Issuance of an endorsement to a permittee's or operator's license that authorizes a vendor to sell pull-tabs on behalf of the permittee or operator.

Remember we are striking the operator. We are asking for an endorsement to be able to license the vendor. We agree with a \$50 or \$100 dollar licensing fee (whatever the case may be). There should be no more than one vendor license and one permittee license per establishment. If that establishment wants another permittee, allow them to give notice to the present permittee they have in force that they would like to switch. Don't hang 15 permittee licenses on the wall. You begin to lose accountability, tractability, who's game is being played, and how it is being played. Close it off.

3. a cap of 30% of ideal net on the amount that a vendor can charge a permittee or operator to compensate the vendor for selling pull-tabs on their behalf;

Strike out the operator for they are regulated on a percentage of 15% of the adjusted gross income. My organizations and advisory board members say - make it a 50/50 split of the ideal net with the charity paying the tabs and the tax. A standard price per tabs and the tax will not change.

The unscrupulous individual is going to charge \$200.00 for the tabs instead of \$75.00 so the charity gets less and less. Adopt a 50/50 split with a reasonable price for tabs and tax.

4. the requirement that the vendor pay the agreed upon amount of profit to the permittee or operator at the time of delivery of a pulltab series to the vendor for sale.

We have a large state - the largest - and it is very remote so it is therefore difficult sending a case of pull-tabs to Pilot Point. They are going to have only one or two games which they will have return the profits and tax on. We are striking the operator and let's strike the tabs and tax and profit. Let's require every permittee to issue a signed purchase order stating, the number of games, the cost of the games, and the tax. This purchase order must be signed by the distributor and the vendor, and must note the date and time of delivery. The permittee will then have 30 days to pay the distributor for the tabs and tax. If he does not pay in 30 days, then the distributor has the right to notify the commission that the permittee has failed to pay, and the commission will write the permittee allowing him 10 days to correct the problem (or maybe 40 days) but that is a paper trail that is accountable.

5. payment into the charitable gaming surety fund by a registered vendor;

You have got a contract so forget it - you don't need a surety sitting in an account some place. The operators have \$100,000.00 - let's leave it - let's let the operators be operators. The distributors, the permittees and the vendors will take care of their homework with their standardized agreement.

6. the requirement that a vendor and permittee or operator enter into a written contract;

This has been addressed. We need a standard state approved contract.

7. the provision that only a permittee or operator may supply pull-tabs to a vendor

Forget about operators. Permittees have already given a purchase order to authorize the vendor to receive pull-tabs on his behalf. If the paper trail is not there, this is an infraction of the reasonable integrity to the playing of the game, and you are not playing by the rules.

8. a provision prohibiting an employee of a vendor from purchasing a pull-tab from any series sold by the vendor;

If an employee working for a vendor selling pull-tabs has not sold a pull-tab from that game then he should be entitled to play it. If he has sold pull-tabs from that series then he should not play one single pull-tab.

9. a prohibition that the owner or manager of a vendor who is also a member of permittee organization or a municipal officer may not enter into a contract to sell pull-tabs on behalf of that organization or municipality for compensation;

If you are a distributor - you are a distributor only. If you are a vendor - you are a vendor only. If you are a permittee - you are a permittee only. If you are in a small community we have to make allowances for this. If you are a vendor selling and a member of the Russian Orthodox Church in one of these small communities, and are using the Russian Orthodox Church permit in your your establishment, the collective effort of everybody in the community is required. In an instance such as this, I feel an allowance should be made.

10. provisions to clarify that a distributor may not deal directly with a vendor; and

We have already discussed that by providing a paper trail to account for the integrity of the game.

11. provision giving the department cease and desist authority when violations of gaming act have occurred or are about to occur. This is difficult. Let the investigators determine the seriousness of the violation or potential violation.

In conclusion, strike operators and allow permittees to handle the sale of pull-tabs in their areas.

Enclosures: Section 1. AS 05.15 (Senate and House Versions)  
\* (Green highlights shall be deleted from current text)  
\*\*(Blue highlights are references only)

- Description of Break Open Games
- Trade Products Catalog
- Capital Games Catalog
- Pull-tab Scales Flyer
- Sample Transmittal Form
- Pull-tab/Win Code Samples (Three Sample Sheets)
- Sample of Winning Pull-tab ticket
- Pull-tab Prize Receipt
- Pull-tab Receipt Log
- Sample of Distributor Game Detail
- Sample of Manufacturer Game Detail (Five Sample Sheets)

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

\* Section 1. AS 05.15 is amended by adding a new section to article 2  
t. read:

Sec. 05.15.188. PULL-TAB SALES BY VENDORS ON BEHALF OF  
PERMITTEES AND OPERATORS; VENDOR REGISTRATION, ENDORSEMENT. (a) A  
permittee or operator may contract with a vendor to sell pull-tabs on  
behalf of a permittee or operator.

(b) A permittee or operator that contracts with a vendor to sell  
pull-tabs on the permittee's or operator's behalf shall first register  
the vendor with the department on a form prescribed by the department.  
The annual vendor registration fee is \$50.

(c) The department shall act upon an initial vendor registration  
within <sup>60</sup>10 working days of receipt of the registration form from a  
permittee or operator.

(d) Upon approval of the vendor registration, the department will  
issue an endorsement to the permittee's permit or the operator's  
license that authorizes the conduct of pull-tab sales at that vendor  
location.

(e) The endorsement issued under (d) of this section is an  
extension of the permittee's or operator's privilege under AS 05.15.100  
to conduct pull-tab sales in this state. A vendor may not sell a  
pull-tab series until the permit or license containing the endorsement  
for the new vendor location has been posted by the permittee or  
operator in the registered vendor establishment. The endorsed permit  
or license must be clearly visible to the gaming public.

(f) A separate endorsement shall be issued for each vendor  
location. It is the responsibility of the permittee or operator to  
inform the department when it changes a vendor location. A permittee

or operator must return to the department the endorsed permit or license of a vendor that is no longer selling pull-tabs on behalf of the permittee or operator. Failure to inform the department of a change in vendor location, or to return the endorsed permit or license to the department after a vendor change, may constitute grounds for the suspension of a permittee's permit or an operator's license.

(g) The vendor registration required by (b) of this section must be accompanied by a <sup>25<sup>00</sup></sup> contribution from the <sup>Permittee</sup> vendor to the charitable gaming surety fund established in AS 05.15.220. The contribution must be drawn on the checking account of the <sup>Permittee</sup> vendor and may not be paid by the permittee or operator on the vendor's behalf.

(h) At the time a permittee or operator annually renews its permit or license, the registration of all locations where a vendor is selling pull-tabs on the permittee's or operator's behalf must also be renewed. In addition, in accordance with AS 05.15.230, the permittee or operator shall forward, with each <sup>Permittee</sup> vendor registration renewal, that <sup>Permittee</sup> vendor's annual contribution to the charitable gaming surety fund.

(i) The permittee or operator that uses a vendor to sell pull-tabs on its behalf shall enter into a written contract with that vendor. The contract <sup>Forms are supplied</sup> is subject to review by the department. If the contract contains agreements counter to the provisions of this chapter or the regulations adopted under it, the department may declare the contract void.

(j) A vendor may not purchase a pull-tab series from a licensed distributor. Only a permittee's member-in-charge <sup>or alternate (one alternate only)</sup> or an operator may directly supply a pull-tab series to a registered vendor for sale by that vendor on behalf of the permittee or operator <sup>only after the following</sup>

- Conditions are met*
- A. Signed Transmittal
  - B. Date & Time of Transmittal or P.O. order
  - C. Cost of goods taxes. See # game No #, Vendor Fee
  - D. Location? Signed by Receiver of Fund

50% (k) A permittee or operator may not compensate a vendor more than 30% of the ideal net to sell pull-tabs on the permittee's or operator's behalf.

(l) An amount equal to <sup>45% gross profit on</sup> the ideal net less the compensation paid to the <sup>permittee - then funds</sup> vendor must be paid by the vendor at the time <sup>well as</sup> the member-in-charge <sup>or alternate (one only)</sup> or operator <sup>(See tablet)</sup> delivers a pull-tab series to the vendor for sale. The amount required to be paid by the vendor under this subsection must be paid by check and must be deposited by the permittee or operator directly into its gaming checking account.

(m) A vendor that fails to meet its contractual agreement with a permittee or operator, fails to comply with a requirement of this chapter or a regulation adopted under it, or the vendor or vendor owner or manager that is convicted of forgery, fraud, theft, or a crime of dishonesty related to the activities governed by this chapter, shall be prohibited for a period of five years from any further involvement in any activity authorized by or conducted under AS 05.15.

(n) An employee of a registered vendor may not purchase a pull-tab from any pull-tab series <sup>that they have sold from</sup> sold by that vendor. A person who knowingly violates this subsection is guilty of a class B misdemeanor.

(o) When the owner or manager of a registered vendor is also a <sup>relative of a</sup> member <sup>in charge or alternate</sup> of a qualified organization issued a permit under this chapter, then the vendor may not enter into a contract with that qualified organization to sell pull-tabs for compensation. When an owner or manager of a registered vendor is also an elected municipal officer or holds a managerial position with a municipality, then the vendor may not enter into a contract with that municipality to sell pull-tabs for compensation.

\* Sec. 2. AS 05.15.183 is amended by adding a new subsection to read:

(e) A distributor may not

(1) take an order for the purchase of a pull-tab series <sup>Drop Shipment ~~to~~ from out of state for a Permittee by Vendor</sup> ~~from~~ for the

*Vendor;*

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

(3) deliver a pull-tab series to a vendor location. <sup>Unless all Requirements current is Sec 05-15-189 (5)</sup>

\*Sec. 3. AS 05.15.210 is amended by adding new paragraphs to read:

(35) "ideal net" means an amount equal to the total amount of receipts that would be received if every individual pull-tab ticket in a series were sold at face value, less the prizes to be awarded for that series; ~~shall not exceed~~ <sup>Exceed</sup> ~~30%~~ <sup>50%</sup>

(36) "permittee" means either a municipality or qualified organization;

(37) "vendor" means a business whose primary activity is not regulated by AS 05.15 but which is engaged in the sale of pull-tabs on behalf of a permittee or operator and holds a business license under AS 43.70 and is

- (i) a retail establishment;
- (ii) an eating establishment; or
- (iii) an establishment licensed under AS 04.11.

*Regulation 5  
Primary Activity meaning  
OS sales not to  
exceed 20% of entire  
gross sales of establishment*

\* Sec. 4. AS 05.15 is amended by adding a new section to article 3 to read:

Sec. 05.15.195. CEASE AND DESIST ORDER. (a) If the commissioner of commerce and economic development determines that a person has engaged in or is about to engage in an act or practice in violation of a provision of this chapter or a regulation adopted under it, the commissioner may issue a cease and desist order prohibiting further action by the person. The cease and desist order remains in effect

until the person has submitted evidence acceptable to the commissioner showing that the violation has been corrected.

(b) A person affected by an order issued under (a) of this section may seek equitable relief preventing the commissioner of commerce and economic development from enforcing the order.

Chart3

### Total Tickets Sold By Week

