

H B

5 8 7

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 21, 1990

FURTHER REFERRALS:

Date of Committee Action: 4/24/90

H25
Rules

The LABOR & COMMERCE Committee considered:

HB 587

HOUSE BILL NO. 587

BAN ELECTRONIC MEDIA ADS FOR GAMBLING

"An Act prohibiting the use of broadcasting to promote or conduct charitable gaming activity; and creating exceptions to the prohibition."

RECOMMENDATIONS:

- be replaced with CSHB 587 (L+C) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note L+ED
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

David Douley
~~_____~~
Mark Boyer Boyer

SIGNING:

(Check approv. column)

	Do Not Pass	No Rec	Amend
<u>David Finkelstein</u>	X		
<u>W. J. Boucher</u>	X		
<u>Max J. Greenberg</u>			X

David Douley

Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Economic Dev.
 Title: Imposing a moratorium on the use of broadcasting to promote or conduct charitable gaming activity, etc. BRU: Occupational Licensing
 Sponsor: House Labor & Commerce Committee Components: Games of Chance & Contests
 Requestor: House Labor & Commerce Committee of Skill

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						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact for FY 90.

Prepared by: Randall P. Burns, Director *PBS*
 Division: Occupational Licensing

Phone: 465-2534
 Date: 4/17/90

Approved by Commissioner: Larry Mercurieff *L.M.*
 Agency: Department of Commerce & Economic Development

Date: 4/24/90

Distribution (by preparer):

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

1 IN THE HOUSE

BY THE LABOR & COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 587 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a moratorium on the use of
7 broadcasting to promote or conduct charitable gaming
8 activity; establishing exceptions to the moratorium;
9 requiring the Department of Commerce and Economic
10 Development to hold hearings on the adoption of
11 regulations concerning the promoting and conducting
12 of charitable gaming activity over broadcasting
13 outlets; and providing for an effective date."

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

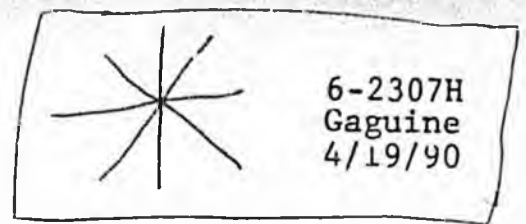
15 * Section 1. Until October 1, 1990, a person may not use broadcasting
16 to promote or conduct charitable gaming activity under this chapter. In
17 this section, "broadcasting" includes television and radio transmission by
18 2,500 megahertz, microwave video and audio programming, slow-scan tele-
19 vision programming, and programming via satellite, cable, teletype, or
20 facsimile transmission and distribution methods.

21 * Sec. 2. Notwithstanding sec. 1 of this Act, a person may use broad-
22 casting to promote fish derbies, and the Department of Commerce and Econom-
23 ic Development may authorize a noncommercial broadcasting station or net-
24 work of stations to broadcast the conducting of an activity under AS 05.15
25 on the station or network under a permit held by the station or network.
26 In this section "noncommercial broadcasting station" means a radio or
27 television station that is licensed by the Federal Communications Com-
28 mission to a governmental entity or to an entity that is exempt from fed-
29 eral taxation under 26 U.S.C. 501(c)(3) (Internal Revenue Code).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

* Sec. 3. The Department of Commerce and Economic Development shall hold hearings around the state, with at least one hearing in each judicial district, for the purpose of adopting necessary regulations concerning the promoting and conducting of charitable gaming activity over broadcasting outlets.

* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).



Original sponsor(s): Labor & Commerce Committee

1 IN THE HOUSE

BY THE LABOR & COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 587 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a moratorium on the use of
 7 broadcasting to promote or conduct charitable gaming
 8 activity; establishing exceptions to the moratorium;
 9 requiring the Department of Commerce and Economic
 10 Development to hold hearings on promoting and con-
 11 ducting charitable gaming activity over broadcasting
 12 outlets and to make recommendations to the legisla-
 13 ture; and providing for an effective date."

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

15 * Section 1. Until July 1, 1991, a person may not use broadcasting to
 16 promote or conduct charitable gaming activity under this chapter. In this
 17 section, "broadcasting" includes television and radio transmission by 2,500
 18 megahertz, microwave video and audio programming, slow-scan television
 19 programming, and programming via satellite, cable, teletype, or facsimile
 20 transmission and distribution methods.

21 * Sec. 2. Notwithstanding sec. 1 of this Act, a person may use broad-
 22 casting to promote fish derbies, and the Department of Commerce and Econom-
 23 ic Development may authorize a noncommercial broadcasting station ^(or network of stations) to broad-
 24 cast the conducting of an activity under AS 05.15 on the station ^(or network) under a
 25 permit held by the station ^(or network). In this section "noncommercial broadcasting
 26 station" means a radio or television station that is licensed by the Feder-
 27 al Communications Commission to a governmental entity or to an entity that
 28 is exempt from federal taxation under 26 U.S.C. 501(c)(3) (Internal Revenue
 29 Code).

1 * Sec. 3. The Department of Commerce and Economic Development shall
2 hold hearings around the state, with at least one hearing in each judicial
3 district, for the purpose of formulating a policy concerning the promoting
4 and conducting of charitable gaming activity over broadcasting outlets.
5 The department shall present its policy recommendations to the legislature
6 no later than January 31, 1991.

7 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

6-2307H
Gaguine
4/19/90

Original sponsor(s): Labor & Commerce Committee

1 IN THE HOUSE BY THE LABOR & COMMERCE COMMITTEE
 2 CS FOR HOUSE BILL NO. 587 (L&C)
 3 IN THE LEGISLATURE OF THE STATE OF ALASKA
 4 SIXTEENTH LEGISLATURE - SECOND SESSION
 5 A BILL

6 For an Act entitled: "An Act establishing a moratorium on the use of
 7 broadcasting to promote or conduct charitable gaming
 8 activity; establishing exceptions to the moratorium;
 9 requiring the Department of Commerce and Economic
 10 Development to hold hearings on promoting and con-
 11 ducting charitable gaming activity over broadcasting
 12 outlets and to make recommendations to the legisla-
 13 ture; and providing for an effective date."

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

15 * Section 1. Until July 1, 1991, a person may not use broadcasting to
 16 promote or conduct charitable gaming activity under this chapter. In this
 17 section, "broadcasting" includes television and radio transmission by 2,500
 18 megahertz, microwave video and audio programming, slow-scan television
 19 programming, and programming via satellite, cable, teletype, or facsimile
 20 transmission and distribution methods.

21 * Sec. 2. Notwithstanding sec. 1 of this Ac., a person may use broad-
 22 casting to promote fish derbies, and the Department of Commerce and Econom-
 23 ic Development may authorize a noncommercial broadcasting station to broad-
 24 cast the conducting of an activity under AS 05.15 on the station under a
 25 permit held by the station. In this section "noncommercial broadcasting
 26 station" means a radio or television station that is licensed by the Feder-
 27 al Communications Commission to a governmental entity or to an entity that
 28 is exempt from federal taxation under 26 U.S.C. 501(c)(3) (Internal Revenue
 29 Code).

1 * Sec. 3. The Department of Commerce and Economic Development shall
2 hold hearings around the state, with at least one hearing in each judicial
3 district, for the purpose of formulating a policy concerning the promoting
4 and conducting of charitable gaming activity over broadcasting outlets.
5 The department shall present its policy recommendations to the legislature
6 no later than January 31, 1991.

7 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

o-2307E

Gaguine

3/28/90

Original sponsor(s): Labor & Commerce Committee

1 IN THE HOUSE

BY THE LABOR & COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 587 (L&C)

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 authorized expenditures for
7 charitable gaming activity; prohibiting the use of
8 broadcasting to conduct charitable gaming activity;
9 and creating exceptions to the prohibition "

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

11 * Section 4. AS 05.15.160(a) is amended to read:

12 (a) The only expenses that may be incurred or paid in connection
13 with the operation of an activity under a permit issued under this
14 chapter are bona fide expenses reasonably necessary for

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

17 (2) personal services involved with the operation of the
18 activity, including those performed by

19 (A) an employee of the permittee; [OR]

20 (B) an operator hired by the permittee to conduct the
21 activity if the compensation is not related to the receipts from
22 the activity;

23 (3) promotion of the activity, except that expenditures by
24 or on behalf of a permittee for advertising in the print or electronic
25 media, other than expenditures for program sponsorship authorized by
26 (4) of this subsection, may not exceed \$1,000 per year per permit; and

27 (4) sponsorship by a permittee or operator of a program on
28 a nonprofit radio or television station provided that the station
29 announces the sponsorship in the same manner as it announces other

sponsors of programs.

* Sec. 2. AS 05.15.180 is amended by adding a new subsection to read:

(h) A person may not use broadcasting to conduct charitable gaming activity under this chapter. In this subsection, "broadcasting" includes television and radio transmission by 2,500 megahertz, microwave video and audio programming, slow-scan television programming, and programming via satellite, cable, teletype, or facsimile transmission and distribution methods.

* Sec. 3. Notwithstanding AS 05.15.180(h), as enacted by sec. 2 of this Act, a noncommercial broadcasting station may conduct charitable gaming activity on the station for a period of three years beginning January 1, 1991, under a permit issued under AS 05.15.100(a) or (b) to the station, to another noncommercial broadcasting station, or to a network of noncommercial broadcasting stations. A permittee whose charitable gaming activity is conducted under this section shall deposit at least 50 percent of the net proceeds of the activity into a permanent endowment fund for the network and its member stations, if the endowment fund exists. In this section "noncommercial broadcasting station" means a radio or television station that is licensed by the Federal Communications Commission to a governmental entity or to an entity that is exempt from federal taxation under 26 U.S.C. 501(c)(3) (Internal Revenue Code).

ROBERT C. BYRD, WEST VIRGINIA, CHAIRMAN

DANIEL K. INOUE, HAWAII
ERNEST F. HOLLINGS, SOUTH CAROLINA
J. BENNETT JOHNSTON, LOUISIANA
QUENTIN N. BURDICK, NORTH DAKOTA
PATRICK J. LEAHY, VERMONT
JIM SASSER, TENNESSEE
DENNIS DECONCINI, ARIZONA
DALE BUMPERS, ARKANSAS
FRANK R. LAUTENBERG, NEW JERSEY
TOM HARKIN, IOWA
BARBARA A. MIKULSKI, MARYLAND
HARRY REID, NEVADA
BROCK ADAMS, WASHINGTON
WYCHE FOWLER, JR., GEORGIA
J. ROBERT KERREY, NEBRASKA

MARK O. HATFIELD, OREGON
TED STEVENS, ALASKA
JAMES A. McCLURE, IDAHO
JAKE GARN, UTAH
THAD COCHRAN, MISSISSIPPI
ROBERT W. KASTEN, JR., WISCONSIN
ALFONSE M. D'AMATO, NEW YORK
WARREN RUDMAN, NEW HAMPSHIRE
ARLEN SPECTER, PENNSYLVANIA
PETE V. DOMENICI, NEW MEXICO
CHARLES E. GRASSLEY, IOWA
DON NICKLES, OKLAHOMA
PHIL GRAMM, TEXAS

United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, DC 20510-6025

JAMES H. ENGLISH, STAFF DIRECTOR
J. KEITH KENNEDY, MINORITY STAFF DIRECTOR

March 28, 1990

Diane Kaplan
Alaska Public Radio Network
4640 Old Seward Highway
Suite 202
Anchorage, Alaska 99503

APR - 3

Dear Diane:

I understand that the Alaska Public Radio Network has submitted a permit application to conduct a broadcast lottery game in Alaska. Public broadcasting deserves more support and needs additional funding.

Fundraising activities have the potential to help APRN establish an endowment to support public broadcasting over the long term. Such an endowment will assure improved access to public broadcasting services for years to come -- and at no additional public expense.

The importance of public broadcasting to Alaska can't be understated. Public broadcasting needs support from many sources, and this includes innovative approaches to fundraising.

With best wishes,

Cordially,



TED STEVENS

LAW OFFICES
GOLDBERG & SPECTOR
1229 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036

HENRY GOLDBERG
PHILLIP L. SPECTOR
JEFFREY H. OLSON
JOSEPH A. GODLES
JONATHAN L. WIENER
HENRIETTA WRIGHT

(202) 429-4900
TELECOPIER:
(202) 429-4918
TELEX:
092320

January 13, 1989

BY TELECOPIER

Ms. Diane Kaplan
General Manager
Alaska Public Radio Network
4640 Old Seward Highway
Suite 202
Anchorage, Alaska 99503

Re: Amendments to Federal Statutes Regulating
the Broadcast of Lottery Information

Dear Diane:

At your request, I am writing to confirm our previous discussions regarding the impact of the 1988 amendments to Sections 1304 and 1307 of the Federal Criminal Code, 18 U.S.C. §§ 1304, 1307. As you know, those provisions prohibited the broadcast of any information promoting lotteries (or other forms of gambling) save for certain narrow exceptions. The 1988 amendments substantially expanded on those exceptions in a way that should enable APRN to conduct certain over-the-air lotteries for fund-raising purposes.

As is germane to APRN, the amended statute permits the broadcast of information promoting a lottery which is conducted in accordance with state law (or is not otherwise prohibited by state law) so long as the lottery is being conducted by (and the proceeds are for the benefit of) a non-profit organization, the non-profit status of which is recognized by the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code. Assuming that APRN qualifies for such non-profit status and, further, that its conduct complies with relevant state law, APRN should be able to engage in the sort of over-the-air fund-raising activity that I understand is being contemplated: i.e., selling "game cards" (possibly bingo or some other type of lottery game) at retail outlets (the proceeds from such sales going to APRN) which listeners will then use to play periodic (e.g., once per week) games that will be broadcast live over the network, with some accurate and secure method of ensuring that there is only

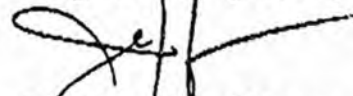
Ms. Diane Kaplan
January 13, 1989
Page 2

one winner per game and that such winner can be readily identified.

One caveat must be mentioned regarding the above. The relevant amendments do not become effective until the spring of 1990, eighteen months after the legislation adopting the amendment in question was signed by the President. Thus, APRN must wait until then before initiating this service.

If you need anything further, please call.

Very truly yours,



Jeffrey H. Olson

100TH CONGRESS
2D SESSION

H. R. 3146

IN THE SENATE OF THE UNITED STATES

MAY 26 (legislative day, MAY 18), 1988

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To clarify certain restrictions on distribution of advertisements and other information concerning lotteries and similar activities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Lottery Advertising Clar-
5 ification Act of 1988".

TITLE 18—CRIMES AND CRIMINAL PROCEDURE

PART I—CRIMES

CHAPTER 61—LOTTERIES

(§§ 1301-1307)

Sec.

1304. Broadcasting lottery information.

1307. State-conducted lotteries.

§ 1304. Broadcasting lottery information

Whoever broadcasts by means of any radio station for which a license is required by any law of the United States, or whoever, operating any such station, knowingly permits the broadcasting of, any advertisement of or information concerning any lottery, gift, enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift, enterprise, or scheme, whether said list contains any part or all of such prizes, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Each day's broadcasting shall constitute a separate offense.³

§ 1307. State-conducted lotteries

(a) The provisions of sections 1301, 1302, 1303, and 1304 shall not apply to an advertisement, list of prizes, or information concerning a lottery conducted by a State acting under the authority of State law—

(1) contained in a newspaper published in that State, or

(2) broadcast by a radio or television station licensed to a location in that State or an adjacent State which conducts such a lottery.

(b) The provisions of sections 1301, 1302, and 1303 shall not apply to the transportation or mailing—

(1) to addresses within a State of equipment, tickets, or material concerning a lottery which is conducted by that State acting under the authority of State law; or

(2) to an addressee within a foreign country of equipment, tickets, or material designed to be used within that foreign country in a lottery which is authorized by the law of that foreign country.⁴

(c) For the purposes of this section (1) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and (2) "foreign country" means any empire, country, dominion,

³ June 25, 1948, ch. 545, 62 Stat. 762.

⁴ Section 1307(b) was amended by Public Law 96-90, 93 Stat. 698, Oct. 23, 1979. The subsection formerly read as follows:

(b) The provisions of sections 1301, 1302, and 1303 shall not apply to the transportation or mailing to addresses within a State of tickets and other material concerning a lottery conducted by that State acting under authority of State law.

colony, or protectorate, or any subdivision thereof (other than the United States, its territories or possessions).⁵

(d) For the purposes of this section "lottery" means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or tickets purchasers. "Lottery" does not include the placing or accepting of bets or wagers on sporting events or contests.⁶

CHAPTER 63—MAIL FRAUD

(§§ 1841-1848)

Sec.

1843. Fraud by wire, radio, or television.

§ 1843. Fraud by wire, radio, or television⁷

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

SEC. 362. INTERFERENCE WITH THE OPERATION OF A SATELLITE.¹⁰

(a) OFFENSE.—Chapter 65 of title 18, United States Code, is amended by inserting at the end the following:

"§ 1367. Interference with the operation of a satellite

"(a) Whoever, without the authority of the satellite operator, intentionally or maliciously interferes with the authorized operation of a communications or weather satellite or obstructs or hinders any satellite transmission shall be fined in accordance with this title or imprisoned not more than ten years or both.

"(b) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency or of an intelligence agency of the United States."

CHAPTER 71—OBSCENITY

(§§ 1461-1465)

Sec.

1464. Broadcast obscene language.

⁵ Section 1307(c) was amended by Public Law 95-90, 98 Stat. 698, Oct. 23, 1979. The subsection formerly read as follows:

(c) For the purposes of this section "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

⁶ Added Jan. 2, 1975, 88 Stat. 916.

⁷ Added July 16, 1952, Ch. 879, sec. 18(a), 66 Stat. 722, and amended July 11, 1956, Ch. 561, 70

-1 SEC. 2. AMENDMENTS RELATING TO IMPORTATION, TRANS-
2 PORTATION, MAILING, AND BROADCAST OF AD-
3 VERTISEMENTS FOR LEGAL LOTTERIES AND
4 SIMILAR ENTERPRISES OFFERING PRIZES DE-
5 PENDENT ON CHANCE.

6 (a) AMENDMENT TO TITLE 18, UNITED STATES
7 CODE.—Subsection (a) of section 1307 of title 18, United
8 States Code, is amended by striking out “conducted by” and
9 all that follows through the end of the subsection and insert-
10 ing in lieu thereof “, gift enterprise, or similar scheme offer-
11 ing prizes dependent in whole or in part upon lot or chance, if .
12 the lottery, gift enterprise, or similar scheme is authorized or
13 not otherwise prohibited by the State in which it is conduct-
14 ed. In a case in which such a prohibition by a State would
15 not apply to Indian country located in that State, the provi-
16 sions of section 1304 of this title shall apply with respect to
17 such Indian country. This subsection shall not apply with re-
18 spect to any casino gambling game conducted or operated by
19 a gambling establishment. For purposes of the preceding sen-
20 tence—

21 “(1) the term ‘casino gambling game’ means rou-
22 lette, blackjack, craps, slot machines, and any similar
23 game of chance or device which is played for money or
24 other thing of value; and

25 “(2) the term ‘gambling establishment’ means an
26 establishment which is engaged in for profit and is op-

1 - erated primarily for the purpose of gaming or gam-
2 bling, including accepting, recording, or registering
3 bets for money or other thing of value.”.

4 (b) AMENDMENT TO TITLE 39, UNITED STATES
5 CODE.—Section 3005(d) of title 39, United States Code, is
6 amended—

7 (1) in clause (1) by striking out “a newspaper”
8 and all that follows through “such a lottery,” and in-
9 serting in lieu thereof “(A) an advertisement, list of
10 prizes, or information concerning a lottery, gift enter-
11 prise, or scheme for the distribution of money or of real
12 or personal property, by lottery, chance, or drawing of
13 any kind, if the lottery, gift enterprise, or scheme is
14 authorized or not otherwise prohibited by the State in
15 which it is conducted, except that this subparagraph
16 shall not apply with respect to any casino gambling
17 game conducted or operated by a gambling establish-
18 ment, or (B) a newspaper of general circulation con-
19 taining an advertisement, list of prizes, or information
20 referred to in subparagraph (A),”; and

21 (2) by adding at the end thereof the following:
22 “For purposes of paragraph (1)(A), the term ‘casino
23 gambling game’ means roulette, blackjack, craps, slot
24 machines, and any similar game of chance or device
25 which is played for money or other thing of value, and

1 the term 'gambling establishment' means an establish-
2 ment which is engaged in for profit and is operated pri-
3 marily for the purpose of gaming or gambling, includ-
4 ing accepting, recording, or registering bets for money
5 or other thing of value."

6 **SEC. 3. TECHNICAL AMENDMENTS.**

7 (a) **AMENDMENTS TO TITLE 18, UNITED STATES**
8 **CODE.**—Chapter 61 of title 18, United States Code, is
9 amended as follows:

10 (1) The section heading of section 1307 is amend-
11 ed to read as follows:

12 "§ 1307. Exceptions relating to certain advertisements and
13 other information and to State-conducted lot-
14 teries".

15 (2) The item relating to section 1307 in the table
16 of sections at the beginning of chapter 61 is amended
17 to read as follows:

"Sec. 1307. Exceptions relating to certain advertisements and other information and
to State-conducted lotteries."

18 (3) Subsection (d) of section 1307 is amended by
19 inserting after "purposes of" the following: "subsection
20 (b) of".

21 (4) The first sentence of section 1304 is amended
22 by inserting after "radio" the following: "or televi-
23 sion".

1 (b) AMENDMENT TO TITLE 39, UNITED STATES
2 CODE.—Subsection (d)(2) of section 3005 of title 39, United
3 States Code, is amended by striking out “such a lottery” and
4 inserting in lieu thereof “a lottery conducted by a State
5 acting under authority of State law.”.

6 SEC. 4. SEVERABILITY.

7 If any provision of this Act or the amendments made by
8 this Act, or the application of such provision to any person or
9 circumstance, is held invalid, the remainder of this Act and
10 the amendments made by this Act, and the application of
11 such provision to other persons not similarly situated or to
12 other circumstances, shall not be affected by such invali-
13 dation.

14 SEC. 5. EFFECTIVE DATE.

15 The amendments made by this Act shall take effect 18
16 months after the date of the enactment of this Act.

Passed the House of Representatives May 25, 1988.

Attest: DONNARD K. ANDERSON,
Clerk.

RESOLUTION OF THE
ALASKA BROADCASTERS ASSOCIATION

Whereas, the Alaska Broadcasters Association was founded in 1964 to promote broadcasting and related endeavors in the public interest, convenience, and necessity; and

Whereas, the membership of the Alaska Broadcasters Association includes both Commercial and Public Broadcast Stations; and

Whereas, H.B. 587 has been introduced in the second session of the sixteenth Alaska Legislature to prohibit the use of broadcasting to promote or conduct charitable gaming activity and create exceptions to the prohibition.

Now, therefore, be it resolved by the Board of Directors of the Alaska Broadcasters Association as follows:

1. That the Alaska Broadcasters Association is opposed to H.B. 587 as written because it is inappropriate and unfair to prohibit or restrict the opportunity of commerce for any portion of our membership

2. That the Alaska Broadcasters Association endorses the concept of charitable gaming activity to benefit the operation of Public Broadcasting Stations in Alaska.

3. That the Alaska Broadcasters Association respectfully suggest the following changes in the language of H.B. 587:

a. Deletion of Section 1(h)

b. Deletion of the word "promote" where it appears in Section 2.

4. That the Alaska Broadcasters Association endorses the concept of free enterprise as developed and practiced in America, including the use of promotion and advertising as an efficient method of assisting business and governmental entities in the dissemination of information about legal and ethical products, services, and other items of interest, and warns that any move to weaken that concept represents unwarranted and unnecessary legislative interference in a process that has worked and continues to work well in the public interest.

PASSED AND APPROVED THIS _____ DAY OF MARCH, 1990

J. PETER VAN NORT
President, ABA

COMMENTS ON CSHB 587

BY

CHARLES M. NORTHRIP, EXECUTIVE DIRECTOR
ALASKA PUBLIC BROADCASTING COMMISSION

MARCH 29, 1990

I regret not being able to appear before the committee in person to testify on this important legislation. Unfortunately, the Alaska Public Broadcasting Commission is holding its quarterly meeting in Juneau at exactly the time of this hearing making it impossible for me to attend this session.

The Alaska Public Broadcasting Commission, the state agency charged with encouraging and developing an integrated system of public broadcasting for the State of Alaska has, on numerous occasions, encouraged its grantee stations to diversify their sources of financial support, so as to lessen system dependence on state funding alone. The 26% loss of State funding over the last four years makes finding new public broadcasting funding sources a critical task. HB 587 offers the possibility of a significant new source of financial support for the system. I'm pleased to state my support for Section 3 of the bill, which would permit the conduct of charitable gaming activity on public broadcasting stations. I'm also pleased to support the concept of permanent endowments for public stations which could be created as a result of this legislation.

Unfortunately I must state my opposition to Section 1 of the bill. The deletion of Section 1 would allow public broadcasters to buy necessary commercial time on for-profit stations to advertise any games they might conduct on their own stations. Such promotion would be a vital and necessary part of the successful conduct of any such games. Section 1, as it is proposed, would unfairly curtail such advertising expenditures and severely limit the potential proceeds from the gaming activity.

I hope the committee will make the necessary amendments to CSHB 587 and recommend its passage to the full House.

APRN

VOICES OF ALASKA

Alaska Public Radio Network ★ 4640 Old Seward Highway ★ Suite 202 ★ Anchorage, Alaska 99503 ★ (907) 563-7733

March 6, 1990

Representative Dave Donley
P.O. Box V
Juneau, AK 99811

Dear Rep. Donley:

It was good to see you again in Juneau. Ashley and I were very encouraged by the enthusiasm other legislators had for your idea.

A bill limiting broadcast games to public radio/tv seems to have few, if any, detractors.

I will be in touch with you soon to learn of any progress on the draft.

I'm also enclosing a copy of the APRN capital request. Representative Gruenberg and Senator Rodey are extremely supportive. Senator Pearce's aide was also enthusiastic.

Representative Hoffman indicated that, if the district could come up with part of the money, he thinks that the rest could be funded with 99 - statewide funds.

Thanks in advance for your support of both of these important issues.

With best regards,


Diane S. Kaplan
Executive Director

APRN

VOICES OF ALASKA

Alaska Public Radio Network ★ 4640 Old Seward Highway ★ Suite 202 ★ Anchorage, Alaska 99503 ★ (907) 563-7733

ALASKA PUBLIC RADIO NETWORK Capital Request

The Alaska Public Radio Network is the coordinating organization for the state's 24 public radio stations. APRN produces "Alaska News Nightly", "National Native News", "Alaska Morning News", "AlaskanArts", "The Governor's Call-in", and special programming, and distributes "Alaska Fisheries Report", "Southeast Native Radio", "We Like Kids" and "The Iditarod". Besides programming, APRN provides training, national representation and technical assistance to Alaska public radio stations. APRN RECEIVES NO GENERAL OPERATING SUPPORT FROM THE STATE OF ALASKA.

Our critical needs are 1) relocation/expansion of the APRN facility (\$350,000) and; 2) critical equipment needs, especially a phone system and work stations (\$48,400).

APRN's current lease will expire in 2 years. It is not clear that we will be able to expand in the current facility. Our space shortage is currently critical. A visit to the Network would, I think, convince you of this. Second, we have long outgrown our current phone system, purchased in 1983. We now have staff members sharing telephones, and no phones in several critical areas. The phone system is no longer made, and not expandable. The work station situation is similarly critical. There is inadequate equipment available for our reporters and producers to effectively do their jobs.

Summaries of our capital items which were submitted through the Alaska Public Broadcasting Commission are attached.

PLEASE NOTE, APRN HAS RECEIVED NO STATE CAPITAL FUNDS SINCE 1981 WHEN THE SATELLITE UPLINK WAS PURCHASED TO DISTRIBUTE OUR STATEWIDE PROGRAMMING AND CONNECT ALASKA TO THE NATIONAL PUBLIC RADIO SATELLITE SYSTEM.

Thank you for your support of this request. Please call Diane Kaplan, Executive Director, at 563-7733 for additional information.

APRN VOICES OF ALASKA

Alaska Public Radio Network ★ 4640 Old Seward Highway ★ Suite 202 ★ Anchorage, Alaska 99503 ★ (907) 563-7703

RESOLUTION 88-5

RESOLUTION OF INTENT REGARDING DEDICATION OF RADIO GAMES REVENUE TO AN APRN ENDOWMENT

WHEREAS, the member stations of APRN are desirous of establishing a permanent, lasting endowment for the benefit of all Alaska public radio stations; and

WHEREAS, there is a possibility that the stations may establish a statewide radio game enterprise as a revenue-generating source,

NOW THEREFORE BE IT RESOLVED, that it is the desire of the member stations that a significant portion of the revenue from the statewide radio game be designated for such a fund.

Approved by the APRN membership and signed this Friday, September 23, 1988.



Bill Legere
Secretary, APRN

A non-profit corporation funded by these APRN Member Stations:

- KSKA-FM Anchorage • KBRW-AM Barrow • KYUK-AM Bethel • KDIQ-AM Dillingham • KUCY-FM Eads • KINN-FM Haines
- KBBB-AM Hoonah • KTOO-FM Juneau • KRBH-FM Kotzebue • KMIN-FM Kodiak • KOYZ-AM Kotzebue • KSKO-AM McGrath
- KFSK-FM Petersburg • KCAW-FM Sitka • KCHU-AM Seward • KSTK-FM Wasilla



Alaska Juneau
Communications, Inc.

HB587

April 19, 1990

Honorable Dave Donley, Chair
Labor and Commerce Committee
House of Representatives
P.O. Box V
Juneau, Alaska 99811

Dear Representative Donley:

Enclosed is a letter I recently wrote to members of my Juneau Delegation regarding my firms opposition to HB 587 relating to charitable gaming activity.

I have also attached a copy of a response from Senator Jim Duncan regarding my letter.

I wanted to let members of the Labor and Commerce Committee know of the opposition of commercial broadcasters in Alaska to provisions contained in this proposed legislation.

It has now been brought to my attention that your committee may consider another committee substitute to place a moratorium on provisions contained in the Federal Charity Games Advertising Clarification Act of 1988 which becomes effective May 7, 1990. Let me assure you the overwhelming majority of Alaska's commercial broadcasters will vigorously oppose this amendment as well.

For decades, Alaska broadcasters have worked for exemptions to the US Code and FCC regulations that would allow us to more fairly compete with our media counterparts. We do not need a hastily written law at the State level that eliminates our endeavors.

It is time the issue of a statewide permit for charitable games advertising for public stations be separated from the local issue of commercial broadcasters desires to comply with the new Federal legislation taking effect in May.

If you have questions or comments concerning views, I will be more than pleased to discuss them with you at your convenience.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dennis W. Egan', written in a cursive style.

Dennis W. Egan
President & GM



Alaska Juneau
Communications, Inc.

April 19, 1990

Honorable Jim Duncan
State Senator
P.O. Box V
Juneau, Alaska 99811

Jim
Dear Senator Duncan:

I am writing to express my opposition to House Bill No. 587 (L&C) relating to charitable gaming activity.

As background, Congress passed the Charity Games Advertising Clarification Act of 1988 which is due to take effect May 7, 1990 that will allow broadcasters to have essentially the same opportunities afforded the print media as it pertains to advertising lotteries and other games of chance such as the Golden North Salmon Derby.

Congress recognized the unfair nature of the ban on charitable gaming through the electronic media and changed the law. Now the Alaska Legislature is threatening to impose restrictions that will essentially do away with the Federal legislation.

To pass this proposed legislation at the State level will effectively kill any opportunities gained by passage of the Federal legislation and eliminate new business opportunities for commercial broadcasters.

As stated earlier in my letter our Washington counsel advises that as drafted, we may possibly be prevented from broadcasting Juneau's Golden North Salmon Derby. The "derby" is the largest single event in this community and broadcasters play a vital role in making it the event it is. We have been able to broadcast this community function in the past through a special Federal exemption gained for us by our congressional delegation in 1981.

We have never been able to advertise or even air public service announcements for organizations that are conducting raffles or games of chance for needy causes due to the Federal prohibition. Just in the past few months we have had to refuse requests from groups such as the Mountain View Senior Citizen Center, the Juneau Volunteer Fire Department, the American Cancer Society and the Glacier Valley Rotary Club. We believe Section 2 will continue to prohibit this. Not only does it prohibit us from being able to

disseminate information by advertising legal products, services and other items of interest, it also prohibits us from even assisting as a public service. With the implementation of the new Federal law we would have been allowed to start doing this May 7th.


I am not opposed to requests by the Alaska Public Radio Network and other public broadcast stations to do charitable gaming for fund raising activities, but I believe this legislation is both unnecessary and has gone a step too far by restricting commercial broadcasters.

I would like to see the committee or the legislature use its time and energies not on restricting how I may compete for advertising dollars (that is how I make my living), but to figure out how the electronic media may be placed on equal footing with the all powerful print media when competing for Public Notice advertising dollars spent by the State of Alaska. Newspapers from around the state currently garner substantial revenues by charging very high rates for publishing public notices required by State law. Broadcasters are not included when it comes to how State agencies are allowed to place this Public Notice advertising, however, most think broadcasters will just run these notices at no charge. Some think we are required to run them as a public service. This is not the case. Broadcasters are not required to run any public service announcements but do so because of a commitment we have made to the communities we serve.

My stations have donated in excess of \$100,000 in public service time in 1989 alone. To single out commercial broadcasters by further restricting their ability to compete in the free enterprise system is, I believe, simply not correct.

Thank you for your attention to this matter. I will be more than happy to answer your questions at any time.

Sincerely,


Dennis W. Egan
President & GM

urchase, but only from stores handling the sponsor's products, did not constitute a "lottery" within this section prohibiting broadcasting of lottery information. *Caples Co. v. U.S.*, 1957, 243 F.2d 232, 100 U.S.App.D.C. 126.

7. State-run lotteries

See also, *Notes of Decisions under section 1307 of this title.*

In suit seeking a declaration that provision of this section prohibiting licensed radio stations from broadcasting any advertisement or information concerning any lottery is inapplicable to lawful state-run lotteries, since Congress, subsequent to the briefing and argument of the case but prior to its decision, added section 1307 of this title, providing that it "shall not apply to an advertisement, list of prizes, or information concerning a lottery conducted by a State acting under the authority of state law . . . broadcast by a radio or television station licensed to a location in that State or an adjacent State which conducts such a lottery," the case would be remanded to consider whether it had been rendered moot. *U.S. v. New Jersey State Lottery Commission*, N.J.1975, 95 S.Ct. 941, 420 U.S. 371, 43 L.Ed.2d 260.

Provision of this section prohibiting broadcasting of information concerning lotteries and Federal Communications Commission regulations promulgated under this section apply to legal state-conducted lotteries as well as to lotteries conducted in violation of state law. *New York State Broadcasters Ass'n v. U.S.*, C.A.N.Y.1969, 414 F.2d 990, certiorari denied 90 S.Ct. 752, 396 U.S. 1061, 24 L.Ed.2d 755.

Jurisdiction

State court did not have jurisdiction to join TV-Bingo scheme, even if it constituted a lottery under state statute, as Congress preempted field of regulating broadcasting of lotteries over TV. *State v. Socony Mobil Oil Co.*, Tex.Civ.App.1964, 386 S.W.2d 169.

Declaratory rulings

Radio and television broadcasters were denied declaratory ruling by Federal Communications Commission as to whether special types of broadcasts would violate this section. *New York State Broadcasters Ass'n v. U.S.*, C.A.N.Y.1969, 414 F.2d 990, certiorari denied 90 S.Ct. 752, 396 U.S. 1061, 24 L.Ed.2d 755.

Questions for court

Wisdom of enforcing this section prohibiting broadcasting of lottery information when

such prohibition runs contrary to state efforts to experiment with lottery as alternate device for raising revenue is for Congress and not for court to resolve. *New York State Broadcasters Ass'n v. U.S.*, C.A.N.Y.1969, 414 F.2d 990, certiorari denied 90 S.Ct. 752, 396 U.S. 1061, 24 L.Ed.2d 755.

The Federal Communications Commission's opinion on whether radio and television "giveaway" programs constitute lotteries, although entitled to respect, is not authoritative, the question involved being one of law and peculiarly within the province of the courts. *American Broadcasting Co. v. U.S.*, D.C.N.Y.1953, 110 F.Supp. 374, affirmed 74 S.Ct. 593, 347 U.S. 284, 98 L.Ed. 699.

18 USC

§ 1305. Fishing contests

The provisions of this chapter shall not apply with respect to any fishing contest not conducted for profit wherein prizes are awarded for the specie, size, weight, or quality of fish caught by contestants in any bona fide fishing or recreational event.

(Added Aug. 16, 1950, c. 722, § 1, 64 Stat. 451.)

Historical Note

Legislative History. For legislative history and purpose of Act Aug. 16, 1950, see 1950 U.S.Code Cong.Service, p. 3010.

Library References

Lotteries — 3.
C.J.S. Lotteries §§ 1-10.

preempts
State

§ 1306. Participation by financial institutions

Whoever knowingly violates section 5136A of the Revised Statutes of the United States, section 9A of the Federal Reserve Act, section 20 of the Federal Deposit Insurance Act, or section 410 of the National Housing Act shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(Added Pub.L. 90-203, § 5(a), Dec. 15, 1967, 81 Stat. 611.)

Historical Note

References in Text. Section 5136A of the Revised Statutes of the United States, referred to in text, is classified to section 25a of Title 12, Banks and Banking.

Section 9A of the Federal Reserve Act, referred to in text, is classified to section 339 of Title 12.

Section 20 of the Federal Deposit Insurance Act, referred to in text, is classified to section 1829a of Title 12.

Section 410 of the National Housing Act, referred to in the text, is classified to section 1730c of Title 12.

Effective Date. Section effective Apr. 1, 1968, see section 6 of Pub.L. 90-203, set out

Labor and Commerce Committee testimony 3-29-90

I'M DIANE KAPLAN, ED OF APRN. A NETWORK OF 24
PUBLIC RADIO STATIONS AND ASSOCIATED PUBLIC
TELEVISION STATIONS

~~THE STATE OF ALASKA HAS MADE A HUGE INVESTMENT IN PUBLIC~~

~~BROADCASTING DATING BACK THIRTY YEARS. ALASKA PUBLIC RADIO~~

~~NETWORK CURRENTLY HAS 24 MEMBER STATIONS COVERING ALMOST~~

~~ALL OF ALASKA AND THERE ARE FOUR PUBLIC TELEVISION STATIONS~~

~~ALL BEGUN WITH STATE SUPPORT~~

IN THE FACE OF DECLINING STATE FUNDING FOR PUBLIC

BROADCASTING STATIONS OVER THE LAST FEW YEARS, PUBLIC

BROADCASTERS HAVE EXAMINED MORE THAN A DOZEN DIFFERENT

ENTREPRENEURIAL ACTIVITIES IN AN EFFORT TO PROTECT THE

SUBSTANTIAL STATE INVESTMENT IN OUR ENTERPRISE ~~TELEVISION~~

SPEAKING ONLY FOR APRN--THE NETWORK--I CAN TELL YOU THAT WE

HAVE TRIPLED CORPORATE PROGRAM UNDERWRITING OVER THE LAST

THREE YEARS, WE'VE DEVELOPED PRIVATE FOUNDATION FUNDING

APPROACHING \$250,000 PER YEAR FOR THE NATIONAL NATIVE

SERVICE NEWS ~~PROGRAM~~, WE'VE MARKETED OUR SATELLITE SERVICES AND THE

LIST GOES ON. THE INDIVIDUAL PUBLIC RADIO AND TV STATIONS

which by no way needed
no state oppo
5-11

CONSISTENTLY HAVE THE HIGHEST PER CAPITA LISTENER AND VIEWER
DONATIONS AMONG ALL STATIONS IN THE UNITED STATES. YOU WILL
FIND NO OTHER PUBLIC SERVICE IN THE STATE OF ALASKA THAT HAS
DONE MORE TO HELP ITSELF IN ~~RECEIVING~~ ^{SUPPLEMENTING} GOVERNMENT FUNDS
THAN PUBLIC BROADCASTING HAS.

YET, IT'S NOT ENOUGH. WE HAVE DECLINING PHYSICAL PLANTS AT
OUR STATIONS AN UNCERTAIN FINANCIAL PICTURE FROM YEAR TO
YEAR, AND A CONSISTENT LOSS OF FEDERAL SUPPORT.

BACK IN 1986

AFTER EXAMINING ~~BACK IN 1986~~ HOW PUBLIC BROADCASTING IS
SUPPORTED IN OTHER WESTERN COUNTRIES, IN A SEARCH FOR NEW
AND INNOVATIVE MEANS TO PRESERVE A FUTURE FOR APRN AND ITS
MEMBER STATIONS, WE DISCOVERED THAT, FOR MANY
YEARS, STATIONS IN DENMARK, CANADA, NORWAY, IRELAND AND
GREENLAND WERE RAISING SUBSTANTIAL REVENUES THROUGH THE
BROADCAST OF TASTEFUL, ENTERTAINING COMMUNITY-ORIENTED, AND
IMMENSELY POPULAR ON-AIR GAMES OF CHANCE.

BROADCAST OF GAMES OF CHANCE WAS NOT LEGAL IN THE UNITED
STATES IN 1986...

SO WE SET OUT, WITH GREAT SUPPORT FROM SENATOR TED STEVENS WHO SITS ON THE U.S. SENATE SUBCOMMITTEE ON COMMUNICATIONS, TO INITIATE A CHANGE IN FEDERAL LAW TO ALLOW US TO TRY THIS INNOVATIVE METHOD OF FUNDRAISING IN ALASKA.

LAST YEAR, WITH SENATOR STEVENS SUPPORT, THE LOTTERY ADVERTISING CLARIFICATION ACT WAS PASSED BY THE U.S. CONGRESS AND SIGNED INTO LAW BY FORMER PRESIDENT REAGAN EFFECTIVE ^{THAT'S} MAY OF 1990--TWO MONTHS FROM NOW.

IN ADDITION TO LIFTING RESTRICTIONS ON THE ADVERTISING AND PROMOTION OF LEGAL GAMES OF CHANCE, AS ADVOCATED BY OUR FRIENDS IN COMMERCIAL BROADCASTING, THE BILL ACCOMPLISHED APRN'S AND SENATOR STEVENS OBJECTIVE OF ALLOWING PUBLIC BROADCASTERS, AS ELIGIBLE NON-PROFIT PERMITTEES, TO CONDUCT ON-AIR GAMES FOR FUNDRAISING PURPOSES FOR THEIR OWN BENEFIT.

WE HAVE ALREADY SUBMITTED A PERMIT APPLICATION TO THE DEPARTMENT OF COMMERCE. HOUSE BILL 587 CLEARLY SETS OUT THE STATE'S INTEREST IN SEEING PUBLIC BROADCASTERS TEST THIS MEANS

OF SUPPORT TOWARDS BUILDING AN ENDOWMENT FOR THE LONG-TERM SURVIVAL OF THE ALASKA PUBLIC BROADCASTING SYSTEM

WHICH IS CURRENTLY SERIOUSLY UNDERFUNDED, UNDER-

EQUIPPED AND DESTINED, AT THIS POINT TO OPERATE IN A

DOWNWARD SPIRAL OF FINANCING--DESPITE ^{OUR SUBSTANTIAL} OWN EFFORTS TO

THE CONTRARY.

WE NEED YOUR SUPPORT, NOW, FOR THIS ACTIVITY. THE DENMARK

PUBLIC BROADCASTING SYSTEM RAISED \$20 MILLION DOLLARS LAST

YEAR IN ITS 10 WEEK, ON AIR, GAME. 80% OF THE DANISH

POFULATION PLAYED.

WE ANTICIPATE OPERATING A SIMILAR, SHORT SEASON OF ONE HOUR

OR LESS ON AIR GAMES--PERHAPS FOR 10 WEEKS OF THE YEAR--AND

WE BELIEVE WE CAN RAISE SEVERAL MILLION DOLLARS A YEAR TO SEED

AN ENDOWMENT FUND FOR PUBLIC BROADCASTING'S FUTURE.

THE CORPORATION FOR PUBLIC BROADCASTING HAS SELECTED APRN'S

PROPOSAL TO DEVELOP, TEST AND MARKET AN ON-AIR GAME AS A

~~FINALIST~~

~~FINALIST~~ FOR FUNDING IN ITS SYSTEM DEVELOPMENT GRANT FUND WITH

THE IDEA OF DEVELOPING THIS IDEA NATIONALLY FOR SUPPORT OF

PUBLIC BROADCASTING THROUGHOUT THE UNITED STATES. THE

APRN BOARD OF DIRECTORS HAS ALREADY COMMITTED OVER TEN THOUSAND DOLLARS TOWARDS THE RESEARCHING OF ON AIR GAMES.

BACK IN 1988.

OUR STATIONS ~~THE~~ COMMITTED TO CONTRIBUTING A SUBSTANTIAL PORTION OF THE REVENUE ~~WAS~~ TO AN ENDOWMENT ~~BACK IN~~ 1988 ~~IN THE FORM OF A BETHEL RESOLUTION.~~ WE'VE ALSO COMMITTED TO APPORTIONING PROCEEDS ON A PROPORTIONAL BASIS BACK TO THE COMMUNITIES WHERE THE REVENUE ORIGINALLY DERIVED--SO IN OTHER WORDS IF 8% OF THE REVENUE CAME FROM BETHEL, 8% OF DISTRIBUTED FUNDS WOULD GO BACK TO KYUK. IN BETHEL.

BECAUSE EACH OF OUR STATIONS IS LOCALLY OWNED AND ^{AND COMMUNITY ADVISORY BOARD} OPOERATED, AND RUN BY BOARDS OF DIRECTORS) CONSISTING OF SOME OF ALASKA'S MOST UPSTANDING CITIZENS, WE CAN ASSURE YOU THAT ANY BROADCAST GAME WE PRESENT WILL BE OF LIMITED DURATION, AND CONDUCTED WITH TASTE AND DIGNITY, AND WITH THE SAME STANDARDS OF PROGRAMMING EXCELLENCE THAT OUR LISTENERS AND VIEWERS HAVE COME TO EXPECT FROM US. WE EXPECT OUR PROGRAM TO BE AN ALASKAN ENTERTAINMENT VARIETY PROGRAM,, OR AN ALASKA QUIZ SHOW, THE KINDS OF

FRANKLY

PROGRAMS, WE CANNOT NOW AFFORD TO PRODUCE---PROGRAMS WHICH WILL DRAW SIGNIFICANT LISTENERSHIP AND VIEWERSHIP AND SUBSTANTIAL FUNDS FOR PUBLIC BROADCASTING.

WE APPRECIATE THE SUPPORT OF COMMERCIAL BROADCASTERS THROUGH THE ALASKA BROADCASTERS ASSOCIATION FOR PUBLIC BROADCASTINGS DESIRE TO CONDUCT THESE FUNDRAISING GAMES. WE UNDERSTAND THEIR CONCERNS FOR LIMITS ON ADVERTISING OF LEGAL GAMES. OUR INTENTION IS ONLY TO ALLOW PUBLIC BROADCASTERS TO CONDUCT GAMES FOR ~~THEIR~~ ^{OWN} OWN BENEFIT ON ^{OUR} ~~THEIR~~ AIRWAVES.

WE ARE ABSOLUTELY CONVINCED OF THE FINANCIAL VIABILITY OF THIS ACTIVITY, OF ITS LEGALITY UNDER FEDERAL LAW AS EVIDENCED BY THE TWO SEPARATE LEGAL OPINIIONS WE HAVE PRESENTED TO THE COMMITTEE BY REPECTED WASHINGTON DC COMMUNICATIONS FIRMS, AND WE ARE CONVINCED OF THE NECESSITY ~~FOR US TO~~ ^{OF} PURSUE THIS AVENUE OF FUNDRAISING QUICKLY THEREBY ENSURING THE LONG-TERM FINANCIAL MAINTENANCE OF THE ALASKA PUBLIC BROADCASTING SYSTEM.

I'D LIKE TO REMIND THE COMMITTEE THAT FOR MANY ALASKANS
PUBLIC RADIO IS THE ONLY RADIO AVAILABLE--IT IS NOT A LUXURY IT
IS A VITAL NECESSITY. IT'S THE PRIME EMERGENCY NOTIFICATION
SYSTEM FOR MANY COMMUNITIES AND A PRIME PROMOTER AND
PRESERVER OF LOCAL LANGUAGE, CULTURAL AND HISTORY IN MANY
PLACES.

WE ARE ASKING YOU ONLY FOR THE TOOLS TO HELP US HELP
OURSELVES IN ENSURING THAT FUTURE ALASKANS WILL BE ABLE TO
~~WE~~ ENJOY THE PUBLIC BROADCASTING SYSTEM ON WHICH WE HAVE
COME TO RELY.

THANK YOU.

LAW OFFICES

SCHWARTZ, WOODS & MILLER

SUITE 200, THE DUPONT CIRCLE BUILDING
1350 CONNECTICUT AVENUE, N.W.
WASHINGTON, D. C. 20036-1702

I. J. SCHWARTZ
ROBERT A. WOODS
LAWRENCE M. MILLER
STEVEN C. SCHAPPER
MALCOLM G. STEVENSON

202-833-1700

CABLE: SWMLAW

FACSIMILE
(202) 833-2351

GLENN S. RADIN
CAROL IANNONE BROADBENT

TAX COUNSEL
MARK B. WEINBERG

A Memo To Our Clients . . .

March 15, 1990

LIBERALIZED LOTTERY RULES BECOME EFFECTIVE SHORTLY

May 7, 1990 is the effective date for the Charity Laws Advertising Clarification Act of 1988. This legislation will significantly relax the prohibition against broadcasts involving lotteries (see our memo of May 22, 1989). At present, the Federal criminal code and related Commission regulations prohibit the broadcast of lotteries or of advertising or information concerning lotteries except for broadcasts involving certain types of fishing contests and lotteries conducted by the State in which the broadcasting station is licensed or in an adjoining state.

The Act will significantly broaden the current exceptions to the lottery ban. It will permit advertising or broadcast of other information concerning lotteries conducted by any state as long as the station is licensed in a state that conducts a lottery. The revised exemption will also allow broadcasters to air advertisements and other information concerning "a lottery, gift enterprise, or similar scheme" conducted by a governmental or not-for-profit organization or conducted as a promotional activity by a commercial organization as long as that promotion is "clearly occasional and ancillary to the primary business" of the commercial organization. You should note that current restrictions concerning on-air fund-raising for unrelated non-profit organizations will continue to apply in the lottery context.

SUMMARY: The Charity Games Advertising Clarification Act will relax the Federal ban on broadcasts involving lotteries. The Act will generally permit broadcasters, where allowed by State law, to air lotteries or information concerning lotteries conducted by any State, by non-profit and governmental organizations and by commercial organizations on a clearly occasional and ancillary basis.

EFFECTIVE DATE: May 7, 1990.

#2034-AP

- 2 -

The revised Federal law does not override any State prohibitions respecting lotteries or related activities. In fact, Congress delayed the effective date of the Act for several months in order to permit the States to enact any restrictions deemed appropriate. Consequently, we strongly recommend that you consult with local counsel before undertaking any activities permitted under the liberalized Federal requirements to determine applicable State law. Also, it should be noted that the Federal prohibition on advertising casino gambling is still in effect regardless of State law.

Although the Act is not entirely clear, it appears to allow broadcasters to conduct their own lotteries, such as raffles, over the air. In this connection the current general Federal prohibition bans "the broadcasting of" any lotteries. The Act, however, allows broadcast of "advertisement[s], lists of prizes and other information" concerning lotteries. We interpret the language permitting broadcast of "other information" about lotteries to encompass the actual conduct of a lottery. This interpretation is consistent with the view of the NAB. The Commission's staff, in informal discussion, has also agreed with our interpretation without committing to an official position. The Commission may provide further guidance concerning this issue and other aspects of the liberalized lottery rules in the future. We would urge you to use caution until Commission clarification has been secured. Please let us know in advance of any plans you may have in the area.

If you have any questions concerning these matters, please contact us.