

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4818 HLAB HB 299 - HB 340

390

permit or permits involved.

(c) An operator may not be a "member in charge", as described in 15 AAC 105.210, of a gaming activity conducted under a permit. The operator, himself or herself, must be present during an activity conducted under a permit, unless a member in charge is present.

(d) No employee of a permittee or operator may participate in a gaming activity conducted under a permit.

(e) No operator may pay for a permittee's expenses incurred for gaming activities conducted under a permit. (Eff. / / , Reg.)

Authority: AS 05.15.060

ARTICLE 2. RULES FOR CERTAIN GAMING ACTIVITIES

15 AAC 105.110 is repealed and readopted to read:

15 AAC 105.110. BINGO RULES. (a) No permittee may conduct more than nine bingo sessions each calendar month nor more than one bingo session each day.

(b) A single bingo session or series of bingo games may not exceed 35 total games, including both regular and special games.

(c) No permittee may charge more than \$1.00 as admission to any bingo session or series of bingo games. The admission fee entitles the player to at least one card and allows the player to participate without additional charge in at least five regular games to be played on that occasion. No additional donation can be solicited or accepted as a condition of admittance.

(d) No permittee may charge more than 50 cents for a single opportunity to participate in any game other than the five games covered by the admission fee in subsection (c).

(e) A permittee shall allow each player to select his or her own cards from the deck, group, or series of cards. Cards cannot be reserved for players.

(f) The caller shall clearly announce the type of game, its winning requirements, and the prize offered before each game.

(g) Once a caller has started to call a number, the caller shall complete the call of that number. After the caller has started to call a number, if any player had bingo based upon the previous number called, that player shall share the announced prize with any other players who get bingo on the just completed call.

(h) If two or more players get bingo on the same completed call, each player shall share the announced prize equally.

(i) The numbers or symbols drawn from the receptacle during a call shall be displayed in plain view, and shall be available for inspection by the players. Absent the display of the drawn numbers or symbols on a television monitor simultaneously with the call, the drawn numbers or symbols shall be available for verification by any player at any time during the game and for a period of at least five minutes after each game has ended.

(j) A winner of a bingo game shall produce a picture identification card issued by the state or federal government. Payment of the announced prize to a winner may be postponed no longer than until the next bingo session conducted under the permit in order to verify the authenticity of the winning card and the identification of the winner.

(k) No single prize award in a single bingo game may exceed \$1,000, and the total prizes awarded during any one bingo session may not exceed \$5,000. A prize must be awarded as announced by the caller before the game.

(l) Only cash or merchandise may be awarded as a prize to the winner of a bingo game. No game tickets, bingo cards, pull-tabs, or other gaming items may be awarded as any part of a prize.

(m) No merchandise prize awarded in a bingo game may be converted into cash by the permittee conducting the game.

(n) When merchandise is awarded as a bingo prize, its value for reporting purposes is its current retail market value.

(o) A player must be at least 19 years of age to participate in bingo.

(p) A permittee may not purchase equipment, prizes, and supplies for bingo at prices higher than the current value or retail price.

(q) A permittee may not rent or lease bingo equipment or premises for payments higher than the current fair market rental of the equipment or premises.

(r) No game of bingo may be held, operated, or conducted in any room, enclosure, or outdoor area where alcoholic beverages are sold, served, or consumed during the bingo game. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60; am / / , Reg.)

Authority: AS 05.15.060

15 AAC 105 is amended by adding a new section to read:

15 AAC 105.115. ANNUAL PRIZE LIMIT FOR RAFFLES, LOTTERIES, AND PULL-TABS. (a) A permittee may not award prizes for raffles, lotteries, and pull-tabs, the aggregate total value of which exceeds \$200,000 in a calendar year.

(b) A permittee may not conduct raffle, lottery, or pull-tab gaming activities jointly with another permittee in order to exceed the annual prize limit set in (a) of this section. (Eff. / / , Reg.)

Authority: AS 05.15.060

15 AAC 105.120 is repealed and readopted to read:

15 AAC 105.120. RAFFLE AND LOTTERY RULES. (a) If the rules of a raffle or lottery require winners be present at the time and place of the drawing in order to win, then all of the raffle or lottery tickets must include a clear statement of that requirement.

(b) All raffle and lottery tickets and stubs shall be serially numbered consecutively.

(c) The name of the permittee and the permit number must be printed on each raffle and lottery ticket and stub.

(d) All unsold tickets and stubs must be accounted for at the conclusion of each raffle or lottery.

(e) A permittee that conducts a raffle or lottery must conduct the activity and award the prize as announced or advertised. If the permittee decides to postpone or cancel the raffle or lottery, it must give reasonable notice and refund the purchase price of the raffle or lottery ticket to the purchaser upon demand. A violation of this rule is cause for the immediate suspension of the organization's gaming permit.

(f) A qualified organization that conducts a raffle or lottery must account for all tickets and money before the drawing is held. (Eff. 9/6/60, Reg. 2; am 11/6/76, Reg. 60; am 12/31/82, Reg. 84; am 2/25/84, Reg. 89; am / / , Reg.)

Authority: AS 05.15.060
AS 05.15.130
AS 05.15.210

15 AAC 105 is amended by adding a new section to read:

15 AAC 105.123. SPECIAL DRAW GAMES. (a) A special-draw game is a game of chance in which the winner is determined by means other than by an actual drawing. A permittee may conduct the following special-draw games:

(1) ring-toss: player tosses rings over soft drink bottles;

(2) penny pitch: player tosses penny into glassware or similar receptacle, if a penny remains in a receptacle, the player receives the receptacle as a prize;

(3) fish pond: player hooks a numbered fish and receives the prize with that number from a prominent display of all numbered prizes;

(4) duck pond: player selects a numbered floating duck and receives the prize with that number from a prominent display of all numbered prizes;

(5) string game: all prizes are on a shelf attached to a string; player selects a string and receives the prize attached to it;

(6) baseball-toss: player tosses baseball into a numbered receptacle and receives a prize with that number from a prominent display of all numbered prizes;

(7) dart game: player throws darts at targets with numbered slips of paper attached but hidden from the player; the total of the numbers attached to the targets hit determines the prize received by the player;

(8) dart wheel: each player places money on a board with eight numbered sections corresponding to eight sections on a wheel; one player throws a dart at the wheel while it is spinning to determine the winning number;

(9) grab bag: player pays to select a wrapped package;

(10) bean guess: player pays to guess the number of beans in a container; the player whose guess is the closest wins the prize;

(11) rodent game: player chooses a numbered exit hole in an enclosure into which a rodent is placed; winner is determined by the hole the rodent chooses.

(b) The charge for a single opportunity in a special draw game may not exceed 50 cents. (Eff. / / , Reg.)

Authority: AS 05.15.060

15 AAC 105 is amended by adding a new section to read:

15 AAC 105.125. PULL-TAB RULES. (a) Pull-tabs are a game of chance in which a paper device that contains concealed pre-printed sequences of symbols or numbers is purchased by the player. The symbols or numbers are revealed by pulling a paper tab or by rubbing a covered surface. Pre-posted prizes are won for certain combinations of symbols or numbers.

(b) The charge for a pull-tab may not exceed \$2.00.

(c) Pull-tabs sold under a particular permit may be sold at only one site at a time.

(d) No permittee may sell a pull-tab that was in any manner marked, defaced, tampered with, or otherwise placed in a condition that would deceive the public or that affects the chances of winning or losing.

(e) Pull-tab prizes shall be paid in cash or check only, not with additional pull-tabs, raffle or lottery tickets, bingo cards, or with any similar gaming material. All pull-tab prizes and winners shall be recorded on a form provided by the department at the time they are paid.

(f) A player must be at least 19 years of age to participate in pull-tab games.

(g) A pull-tab game conducted under a particular permit may not be switched to or mixed with a pull-tab game conducted under another permit. (Eff. / / , Reg.)

Authority: AS 05.15.060

15 AAC 105.130 is repealed and readopted to read:

15 AAC 105.130. KENAI RIVER ICE CLASSIC. If the department determines that a conflict exists between the Kenai Rotary Club and the Soldotna Rotary Club in the joint operation and administration of a Kenai River Ice Classic, then the organization whose application is received earliest will receive the permit to conduct the activity, if all other conditions of this chapter are satisfied. (Eff. 9/7/60, Reg. 2; am / / , Reg.)

Authority: AS 05.15.060
AS 05.15.210(13)

The heading of 15 AAC 105.135 is amended to read:

15 AAC 105.135. MONTE CARLO RULES [ACTIVITIES].

15 AAC 105.135 is amended by adding a subsection to read:

(d) A permittee authorized to conduct activities under AS 05.15.100(b) shall file with the department, within 30 days after the conclusion of each authorized activity, a completed interim financial statement. The statement must report the gross receipts from the activity, the net proceeds, the intended use of the net proceeds, and the persons who were actually responsible for the conduct or operation of the games. The commissioner will not issue a subsequent permit until the interim financial statement required by (a) of the section has been filed. (Eff. / / , Reg.)

Authority: AS 05.15.060

15 AAC 105.140 is repealed and readopted to read:

15 AAC 105.140. DOG MUSHERS' CONTESTS. A dog mushers' contest conducted by a permittee must be based on a race of dog team drawn sleds over a specified course laid out by the permittee, with prizes awarded according to rules announced before the race by the permittee. (Eff. 9/7/60, Reg. ; am / / , Reg.)

Authority: AS 05.15.060

15 AAC 105.150 is repealed:

15 AAC 105.150. FISH DERBIES. Repealed / / .

15 AAC 105 is amended by adding a new section to read:

15 AAC 105.155. CLASSICS AND DERBIES. (a) Permittees authorized by AS 05.15 to conduct classics or derbies shall

(1) apply for and renew annual permits as provided in 15 AAC 105.170 and 15 AAC 105.180;

(2) submit annual reports as required by AS 05.15.080;

(3) provide the department each year at the time of application or renewal with the current rules of the classic or derby;

(4) be exempt from the following provisions of this chapter:

(A) 15 AAC 105.115, on prize limits

(B) 15 AAC 105.220, on minimum net proceeds

(C) 15 AAC 105.225, on expense limits; and

(D) 15 AAC 105.270, on permit display.

(b) Permittees authorized by AS 05.15 to conduct classics or derbies shall immediately notify the department if they are disqualified by another governmental agency from continuing to conduct business in the state. Upon such disqualification, the organization's permit to conduct gaming activity will immediately terminate, and no further activity shall be conducted. (Eff. / / , Reg.)

Authority: AS 05.15.060

15 AAC 105.160 is repealed:

15 AAC 105.160. CONTESTS OF SKILL. Repealed. / / .

ARTICLE 3. GENERAL RULES

15 AAC 105 is amended by adding a new section to read:

15 AAC 105.165. APPLICATION FOR NONPROFIT GAMING PERMIT.

(a) A qualified organization as defined in AS 05.15.210(19) may apply to the department for a nonprofit gaming permit on a form provided by the department. The application must include

- (1) the name and mailing address of the organization;
- (2) the name, title, and daytime telephone numbers of the organization's officers;
- (3) unless the applicant is a municipality, the type of organization as listed in AS 05 15.210(19);
- (4) the types of gaming activities listed in AS 05.-15.100 that the organization proposes to conduct;
- (5) the specific purposes for which the entire net proceeds are to be devoted;
- (6) the estimated yearly gross receipts from each proposed gaming activity;
- (7) the name and address of the actual location where the gaming activity is to be conducted;
- (8) the name, address, and telephone number of the member in charge of each gaming activity and an alternate;
- (9) if the permit is to be operated by an individual,

municipality, or qualified organization on behalf of a permit holder, the application must include the name and address of the operator;

(10) a statement that no operator, member in charge, or employee of the applicant or of an operator has ever been convicted of any felony, any crime involving moral turpitude, or any gambling offense.

(b) An application submitted under (a) of this section must be accompanied by

(1) a copy of the organization's articles of incorporation, bylaws, and national or state charters, as applicable;

(2) evidence of non-profit status, such as a current Internal Revenue Service letter of tax exemption;

(3) a current list of at least 25 Alaskan members of the organization;

(4) the \$20 application fee required by AS 05.15.020;

(5) evidence that a copy of the application has been provided to the nearest municipality as required by AS 05.15.-030(a);

(6) for a permit to conduct Monte Carlo activities under AS 05.15.100(b) and 15 AAC 105.135, the written approval of a law enforcement agency with jurisdiction in the proposed gaming location.

(c) Applications will include a statement that falsification is cause for denial of a permit, criminal penalties for unsworn falsification, and immediate suspension of a permit if one is issued. (Eff. / / , Reg.)

Authority: AS 05.15.030
AS 05.15.060

15 AAC 105.170 is repealed and readopted to read:

15 AAC 105.170. ISSUANCE OF PERMITS. (a) Upon approval of the application by the department, a permit will be issued for that calendar year. Activities shall not be conducted until an annual permit has been issued. Gaming activity authorized by the permit may be conducted for the balance of the calendar year, unless the permit is suspended or revoked by the department.

(b) The applicant must notify the department in writing within 10 days after a change in the tax exempt status of the applicant, the name, address, or daytime telephone number of a

member in charge, alternate member in charge, or operator, or any other information in or accompanying an application.

(c) The department will not issue a permit until at least 15 days after an application is received to allow time for a municipal protest under AS 05.15.030(a). The department will refuse to issue a protested permit unless the commissioner determines the protest is arbitrary, capricious, or unreasonable. (Eff. 9/7.60, Reg. 2; am 11/6/76, Reg. 60; am 2/25/84, Reg. 89; am / / , Reg.)

Authority: AS 05.15.020 AS 05.15.060
AS 05.15.030 AS 05.15.100
AS 05.15.040 AS 05.15.130

15 AAC 105.180 is repealed and readopted to read:

15 AAC 105.180. RENEWAL OF PERMITS. (a) A permit may be renewed by filing a new application as described in 15 AAC 105.-165. However, the renewal application need not be accompanied by the documents required by 15 AAC 105.165(b)(1) and (2) unless there has been a change during the past year.

(b) A permit will not be renewed until the permittee has filed the annual financial statement required by AS 05.15.080 for the previous year. The previous year's permit will serve as a temporary permit during the period from January 1 through January 31. If the department has not received the annual financial statement by February 15, the temporary gaming permit will automatically terminate and no further gaming activity may be conducted.

(c) The department will not renew a permit until at least 15 days after an application is received to allow time for a municipal protest under AS 05.15.030(a). The department will refuse to renew a protested permit unless the commissioner determines the protest is arbitrary, capricious, or unreasonable. (Eff. 9/7.60, Reg. 2; am 11/6/76, Reg. 60; am / / , Reg.)

Authority: AS 05.15.020
AS 05.15.060

15 AAC 105.190(a) is amended by adding a new paragraph and 190(b) is amended to read:

15 AAC 105.190. SUSPENSION, REVOCATION, OR DENIAL OF PERMITS; HEARINGS. (a) The following are grounds for the suspension, revocation, or denial of a permit:

. . . .

(9) failure to notify the department in writing of a

change in any information in or accompanying an application for issuance or renewal of a permit within 10 days as required by 15 AAC 105.170(b).

(b) The department will notify the permittee or permit applicant by certified mail of any action to suspend, revoke, or deny a permit. The notice will include a statement of the grounds for the suspension, revocation, or denial, and the legal authority for the action. The notice will specify whether the commissioner is exercising his power under AS 05.15.170 to immediately suspend a permit pending investigation or hearing. If the commissioner exercises this power

(1) the permittee shall immediately surrender the permit itself and cease all activities under it;

(2) unless the hearing officer grants a request by the permittee for an extension or a waiver of hearing, a hearing must be commenced within 30 days after the immediate suspension; and

(3) the immediate suspension will continue unless it is stayed by the commissioner based on a written decision of the hearing officer. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60; am 9/17/86, Reg. 99; am / / , Reg.)

Authority: AS 05.15.060
AS 05.15.140
AS 05.15.170

[[[15 AAC 105.195. CONDUCT OF HEARINGS. NO CHANGE PROPOSED.]]]

15 AAC 105.200 is repealed and readopted to read:

15 AAC 105.200. INVESTIGATION. (a) Applicants and permittees are subject to investigation, in the commissioner's discretion.

(b) A permittee and its employees or operator must allow the department and law enforcement officers entry upon the premises where gaming activity is conducted at all reasonable times and in a reasonable manner for the purpose of investigating and enforcing AS 05.15 and this chapter.

(c) A permittee and its employees shall do all things reasonably necessary and appropriate to cooperate with the department and law enforcement officers, including permitting inspection of gaming equipment and business records.

(d) The department will, in its discretion:

(1) conduct inspections of premises where gaming

activity is conducted and operated, and inspect the books, records, and gaming supplies of the qualified organization and its employees;

(2) issue notices of violation under 15 AAC 105.-190(b);

(3) require the production of books, records, invoices, receipts, and supplies necessary to complete an investigation;

(4) serve subpoenae issued by a hearing officer to secure the attendance of witnesses at adjudicative hearings; and

(5) take other action necessary to assure compliance with, and enforcement of, AS 05.15 and this chapter. (Eff. 9/7/60, Reg. 2; am / / , Reg.)

Authority: AS 05.15.060

15 AAC 105 is amended by adding a new section to read:

15 AAC 105.205. PULL-TAB INSPECTION. (a) In addition to inspections under 15 AAC 105.200, the department will, in the commissioner's discretion, select any pull-tab series, whether held by a permittee or an operator, and examine the quality and integrity of the pull-tab series in any manner, including punching out or pulling all chances remaining thereon.

(b) If no violation is discovered, then the qualified organization will be reimbursed by the department for the cost of the pull-tab series, less the department's expenses, and the series shall become the property of the department.

(c) If a violation is discovered, then the series shall become the property of the department and all fees to cover the cost of the pull-tab special inspection services will, in the commissioner's discretion, be assessed against the qualified organization. (Eff. / / , Reg.)

Authority: AS 05.15.060

15 AAC 105.210 is repealed and readopted to read:

15 AAC 105.210. MEMBER-IN-CHARGE. (a) The member-in-charge, or the alternate named on the permit application as required by 15 AAC.105.165(a)(8), is responsible for maintaining all records required under AS 05.15 and this chapter. The member-in-charge or the alternate must be present during an activity conducted under a permit, unless the activity is conducted

by an operator under 15 AAC 105.107 and the operator is present.

(b) The member-in-charge and alternate must be an active bona fide members of the permittee for not less than one year.

(c) The member-in-charge and alternate shall not have a personal financial interest in the conduct or operation of the gaming activity.

(d) Violation of this section is grounds for immediate suspension of a permit under AS 05.15.170. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60; am / / , Reg.)

Authority: AS 05.15.060
AS 05.15.150

15 AAC 105.220 is amended to read:

15 AAC 105.220. MINIMUM NET PROCEEDS. (a) ["NET PROCEEDS" MEANS THE GROSS INCOME FROM THE SALE OF TICKETS OR RIGHTS (INCLUDING ADVANCE SALES) TO PARTICIPATE IN AN AUTHORIZED ACTIVITY, LESS THE COST OF PRIZES AND AUTHORIZED EXPENSES AS DEFINED IN (b) OF THIS SECTION.] The annual net proceeds of a permittee from all gaming activities may not be less than 20 percent of the adjusted annual gross receipts from the activities.

(b) In (a) of this section, "adjusted annual gross receipts" means total annual gross receipts less the total annual prizes paid. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60; am / / , Reg.)

Authority: AS 05.15.060
AS 05.15.150

15 AAC 105 is amended by a new section to read:

15 AAC 105.225. EXPENSE LIMITS. (a) Expenses incurred for conducting activities under a permit must be reasonably necessary and must be for reasonable amounts in relation to market value.

(b) Expenses other than prizes shall not exceed 25 percent of a permittee's annual gross receipts from gaming activities.

(c) A permittee may not pay rent based, even in part, on a percentage of the gross receipts or net proceeds of gaming activity.

(d) A permittee may not pay compensation to an operator or to a person taking part in the management or operation of gaming activity based, even in part, upon a percentage of the gross receipts or net proceeds of the gaming activity. "Management or

operation of a gaming operation" includes providing gaming equipment and supplies to the activity. (Eff. / / , Reg.)

Authority: AS 05.15.060

15 AAC 105.230 is repealed and readopted to read:

15 AAC 105.230. ANNUAL FINANCIAL STATEMENT. (a) An annual financial statement accounting for all money generated from gaming activity under a permit for the year must be filed by a permittee before January 31 following the end of the year of the activity. The statement must be on a form provided by the department. A permittee shall attach to the financial statement a list of all prize winners who received a prize of \$100 or more on a form provided by the department.

(b) The fee of one percent of the net proceeds generated from gaming activity required by AS 05.15.020 must be paid at the time of filing the annual financial statement. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60; am / / , Reg.)

Authority: AS 05.15.060
AS 05.15.080
AS 05.15.130

15 AAC 105.235 is repealed:

15 AAC 105.235. TIME FOR FILING REPORTS. Repealed / / .

15 AAC 105.240 is repealed and readopted to read:

15 AAC 105.240. METHOD OF ACCOUNTING. (a) A permittee shall maintain and keep books and records necessary to substantiate the particulars of each annual financial statement. The books and records shall be compiled and maintained according to generally accepted accounting principles.

(b) All money collected or received from gaming activity shall be deposited in a separate bank account. Gaming money shall not be comingled with the permittee's general account funds. Each check drawn on the gaming account must bear two authorized signatures of the organization.

(c) All prizes of \$100 or more and all expenses for gaming activity shall be paid for by check only, and the check may not be drawn to "cash" or to an intermediate payee.

(d) A permittee, or its operator if any, shall deposit all receipts from a given occasion or activity into the qualified

organization's separate bank account, less cash prizes awarded. The qualified organization shall then pay its expenses, including wages and fees for operations, supplies, equipment, and rent, by check and according to the provisions of this section.

(e) All records and supporting documents pertaining to gaming activity must be maintained for at least three years after the close of the calendar year. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60; am / / , Reg.)

Authority: AS 05.15.060
AS 05.15.130

15 AAC 105 is amended by adding a new section to read:

15 AAC 105.245. REQUIRED AUDITS. (a) If a permittee's annual gross receipts from gaming activities exceed \$200,000 in any calendar year, the permittee must have a complete audit of its income from and expenses for gaming activities for that year.

(b) If a permittee's annual gross receipts from gaming activities exceed \$50,000 in either of two consecutive calendar years, the permittee shall have a complete audit of its financial records for that year with highest gross receipts. A permittee whose annual gross receipts from gaming activities are consistently between \$50,000 and \$200,000 is not required to have an audit under this subsection more often than every other year.

(c) A permittee whose annual gross receipts from gaming activities do not exceed \$50,000 for two consecutive years is not required to have an audit until its annual gross receipts from gaming activities exceed \$50,000.

(d) Audits required by this section

(1) must be done by a certified public accountant authorized to practice in Alaska under AS 08.04;

(2) must be submitted to the department no later than July 1 of the year after the audit year; and

(3) are an expense under 15 AAC 105.225(a).

(e) Permits will be immediately suspended under AS 05.15.-170 for failure to comply with this section.

(f) The first audits required by this section, from permittees whose gross receipts in 1987 exceed \$200,000, must be submitted to the department by July 1, 1988. (Eff. / / , Reg.)

Authority: AS 05.15.060

15 AAC 105.250 is repealed:

15 AAC 105.250. MAINTENANCE OF RECORDS. Repealed / / .

15 AAC 105 is amended by adding a new section to read:

15 AAC 105.255. PAYMENT OF PRIZES. (a) Permittees shall pay all prizes of \$100 or more by check payable to the winner after the winner completes a prize receipt form provided by the department.

(b) Permittees shall also comply with 15 AAC 105.110(j) concerning payment of bingo prizes and 15 AAC 105.125(d) concerning payment of pull-tab prizes. (Eff. / / , Reg.)

Authority:

15 AAC 105.260 is repealed and readopted to read:

15 AAC 105.260. DISPOSITION OF FUNDS UPON SUSPENSION OR REVOCATION OF PERMIT. (a) Upon suspension of any permit, no money may be withdrawn from the separate bank account required by 15 AAC 105.240(b) except for authorized expenses accrued prior to the suspension, or for disposition to their dedicated purpose; as prescribed on the permit application.

(b) Upon revocation or invalidation of a gaming permit, the legitimate authorized expenses previously accrued by the organization may be paid and all remaining money in the separate account must be paid over to the dedicated purposes stated in the permit application. (Eff. 9/7/60, Reg. 2; am / / , Reg.)

Authority: AS 05.15.060

15 AAC 105.270 is repealed and readopted to read:

15 AAC 105.270. DISPLAY OF PERMIT. (a) Each permit issued for the conduct of any activity shall be displayed conspicuously at the place where the activity is conducted.

(b) If more than one permittee conducts its gaming activity at the same location, then the organization whose permit is being operated on each specific occasion must be clearly identified. Only one permit may be operated on a particular occasion. (Eff. 9/7/60, Reg. 2; am / / , Reg.)

Authority:

[[[15 AAC 105.280. USE OF DEDICATED NET PROCEEDS. NO CHANGE PROPOSED AT THIS TIME.]]]

15 AAC 105.290 is repealed:

15 AAC 105.290. EXPENSES. Repealed / / .

15 AAC 105.300 is repealed and readopted to read:

15 AAC 105.300. VIOLATIONS. (a) A violation of any provision of AS 05.15 or this chapter by a permittee or its operator is cause for denial, suspension, or revocation of a gaming permit, including the immediate suspension of a permit under AS 05.-15.170.

(b) A suspension of a gaming permit shall be for not less than 30 days. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60; am / / , Reg.)

Authority: AS 05.15.040
AS 05.15.060

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
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LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 13, 1987

SUBJECT: Section-by-section analysis of W.O. 5-0947A
relating to games of chance and contests of
skill

TO: Representative Dave Donley

FROM: George Utermohle *GU*
Legislative Counsel

The following is the section-by-section analysis of Work Order 5-0947A that you requested.

A section-by-section analysis or summary of a bill should not be considered an authoritative interpretation of a bill, and the bill itself is the best statement of its contents.

Section 1. Section 1 of the bill amends AS 04.11.370 by adding a new paragraph to the effect that a license issued by the Alcoholic Beverage Control Board may be suspended or revoked if a licensee or an employee of a licensee violates a provision of AS 05.15 while on the licensed premises.

Section 2. Section 2 of the bill repeals and reenacts AS 05.15.020.

The annual permit fee for a municipality or qualified organization is set at \$20 if the municipality or qualified organization had gross receipts of less than \$20,000 from games of chance and contests of skill during the prior year. The permit fee is \$50 for a municipality or qualified organization that grossed between \$20,000 and \$100,000 during the prior year. The permit fee is \$100 for a municipality or qualified organization that grossed more than \$100,000 during the prior year.

In addition to the permit fee a municipality or qualified organization that has gross receipts of \$20,000 to \$100,000 shall pay a fee of one percent of its net proceeds to the department. A municipality or qualified organization that

has gross receipts exceeding \$100,000 shall pay a fee of 2% of the net proceeds to the department.

Section 3. Section 3 of the bill repeals and reenacts AS 05.15.030.

A qualified organization shall notify the municipality where it will conduct games of chance or contests of skill of the location of the activity, and the type of activity to be conducted.

Local governmental approval is required before a qualified organization may conduct bingo games, pull-tab games, and special-draw games.

A local government may protest the issuance of a permit to conduct a game of chance or a contest of skill other than bingo games, pull-tab games, or special-draw games. A local government may protest the renewal of a permit to conduct any game of chance or contest of skill, including bingo games, pull-tab games, and special-draw games.

The department may consider the protest of the local government in deciding whether to issue or renew a permit.

If a permittee changes the location of an activity the permittee shall notify the department and the local government within 30 days after the change.

A permittee may conduct activities in an additional jurisdiction if the permittee applies to the department and the department approves.

The department may limit the locations in which a permittee may conduct games of chance or contests of skill.

If a qualified organization applies to conduct an activity more than five miles from a municipality, the department may issue the permit under procedures established by the department.

Section 4. Section 4 of the bill amends AS 05.15.060 to provide for the issuance of various licenses under AS 05.15 and to limit disqualifications for a license or permit based on convictions for a felony to felonies involving theft.

Section 5. Section 5 of the bill amends AS 05.15.070 in order to allow the commissioner of revenue to examine the

books and records of operators, manufacturers of pull-tabs, and distributors of pull-tabs.

Section 6. Section 6 of the bill repeals and reenacts AS 05.15.080.

A municipality or qualified organization that has gross receipts of \$20,000 during a calendar quarter shall file a report with the department.

A municipality or qualified organization shall file an annual report with the department as well as any additional fee due to the department under AS 05.15.020(b).

Section 7. Section 7 of the bill adds new sections to AS 05.15.

Sec. 05.15.083 establishes the duty of operators to report to the department.

An operator shall file a monthly report with the department.

An operator shall file a quarterly report with the department. The quarterly report shall contain information included in the employer's quarterly federal tax return (IRS Form 941) and in the employer contribution and wage reports to the Department of Labor that are prepared by the operator.

An operator shall file an annual report with the department. The annual report shall contain information included in the employer's wage and tax statements (IRS Form W-2) for each employee and in the miscellaneous income reports for each employee (IRS Form 1099). The annual report shall be accompanied by any fee due under AS 05.15.020(b).

Sec. 05.15.087 establishes the duty of an operator to report to an authorizing permittee.

An operator shall report monthly to each authorizing permittee for whom the operator conducts a game of chance or contest of skill. The operator shall pay each authorizing permittee the net proceeds for the month at the same time as the operator makes the monthly report.

An operator shall provide a quarterly report summarizing the activities during the prior calendar quarter for each authorizing permittee.

An operator shall provide an annual report summarizing the activities during the prior calendar year for each authorizing permittee. The annual report shall be accompanied by a certification by the operator that the operator has paid fees due under AS 05.15.020(b).

Section 8. Section 8 of the bill amends AS 05.15 by adding a new section AS 05.15.095.

Applications and reports to the department shall be signed under penalty of perjury by the representative of a permittee or licensee.

The department may extend the deadline for a report due to the department by 30 days for a reasonable cause. The department may not extend the payment date for a fee due to the department.

A municipality or qualified organization may not conduct an activity while a report or fee is delinquent.

A delinquent fee accrues interest at the rate of 12 percent per year.

Section 9. Section 9 of the bill amends AS 05.15.100(a) to provide for the operation of pull-tab games by municipalities and qualified organizations.

Section 10. Section 10 of the bill amends AS 05.15.100 by adding a new subsection to provide for the issuance of licenses to operators who conduct games of chance and contests of skill on the behalf of municipalities and qualified organizations.

Section 11. Section 11 of the bill amends AS 05.15 by adding new sections.

Sec. 05.15.112 requires each municipality and qualified organization to designate a member in charge.

The member in charge is responsible for all records and reports required of a municipality or qualified organization. The member in charge shall be a bona fide member of the qualified organization or an employee of the municipality. The member in charge may not have a financial interest in the games of chance or contests of skill conducted by the municipality or qualified organization or in the operation

of a licensed operator. The member in charge shall be present at each activity conducted under the authority of a permit issued to the member's organization.

The member in charge shall monitor the performance of operators engaged by the member's organization.

Alternate members in charge may also be appointed.

Sec. 05.15.115 establishes requirements for contracts between municipalities and qualified organizations and operators.

The contract between a municipality or a qualified organization and an operator shall include the amount and form of compensation paid to the operator, the term of the contract, the activities to be conducted on the behalf of the permittee, the location where activities are to be conducted, and the name and address of the member in charge.

The permittee may not contract for more than one operator to conduct the same activity on the same day. The different activities are listed.

An operator shall submit copies of contracts, and amendments to contracts, to the department 72 hours before conducting activities under the contract or amendment.

Section 12. Section 12 amends AS 05.15 by adding new sections.

Sec. 05.15.125 establishes requirements for an operator's license.

The department may not issue an operator's license to an applicant, if the applicant, a person owning a significant interest in the applicant, or a managerial or supervisory employee of the applicant has been convicted of a felony involving theft, a crime involving moral turpitude, or a violation of a municipal, state, or federal gambling law.

A person may not hold a significant interest in a licensed operator if the person has been convicted of a felony involving theft, a crime involving moral turpitude, or a violation of municipal, state, or federal gambling law.

An operator may not employ a person in a managerial or supervisory capacity if the person has been convicted of a

felony involving theft, a crime involving moral turpitude, or a violation of a municipal, state, or federal gambling law.

Sec. 05.15.128 requires the department to revoke an operator's permit if the operator does not report a net profit of 15 percent or more during two consecutive quarters based on the total operation of the operator. The operator may appeal the revocation but an audit by the department is conclusive.

The department may suspend or revoke an operator's license for a violation of AS 05.15.

Section 13. Section 13 of the bill amends AS 05.15.160 relating to expenses that may be deducted from gross receipts.

Section 14. Section 14 of the bill adds a new subsection to AS 05.15.160 to provide that expenses may not exceed a reasonable percentage of the permittee's gross receipts. The department determines by regulation what is a reasonable percentage of the gross receipts.

Section 15. Section 15 of the bill amends AS 05.15 by adding new sections.

Sec. 05.15.163 sets the minimum amount of net proceeds at 15 percent of annual gross receipts.

Sec. 05.15.165 establishes the duty of an operator. An operator shall pay net proceeds to the authorizing permittee by check. The operator is required to obtain a receipt from the authorizing permittee. The authorizing is required to retain a copy of the receipt for its records.

The books and records of the operator are available for inspection by the authorizing permittee. The department may enforce the right of the authorizing permittee to inspect the books and records.

The operator may not incur unauthorized expenses or expenses in excess of the amount that is determined to be reasonable by the department. The department may order the operator to refund to the authorizing permittee, plus interest at 1.5% per month, any amount withheld as an unauthorized expense, or an unreasonable expense, or amount in excess of 85 percent of gross receipts.

Advertisements for events conducted by an operator shall contain the name of both the operator and the authorizing permittee. The operator shall post a copy of the operator's license and the permit of the authorizing permittee at the location of each activity conducted by the operator.

The operator shall pay employees of the operator a reasonable wage.

The operator shall obtain liability insurance for each location where the operator conducts games of chance and contests of skill. The operator shall provide proof of insurance to the department and inform the department of changes in or cancellation of insurance. If the operator's liability insurance is cancelled, the operator may not conduct games of chance or contests of skill until subsequent insurance is obtained.

The operator shall have its financial records reviewed by a certified public accountant each year. The operator shall submit the results of the review to the department by February 28.

The operator may not charge losses due to bad checks or uncollectable debts against the net proceeds due to the authorizing permittee, operate under the authority of more than one permit at one location within a 24 hour period, conduct more than one type of activity at a single location within a 24 hour period, extend credit to players, employ house players, or allow employees to play a game conducted by the operator on the same day that the employee works for the operator.

Sec. 05.15.167 establishes the requirement that an operator post a bond or security payable to the department and that the bond is first applied against fees, interest, and penalties due to the department. The operator shall inform the department if the bond is cancelled or the security is impaired.

Section 16. Section 16 of the bill amends AS 05.15.180(b) to include bingo games and pull-tab games within the list of activities that may be conducted in a form and manner different from the way the activities were conducted before January 1, 1959.

Section 17. Section 17 of the bill amends AS 05.15 by adding new sections.

Sec. 05.15.181 establishes the requirement for a pull-tab manufacturer.

A person may not manufacture pull-tabs without a license issued by the department.

Each series of pull-tabs manufactured in the state shall bear a serial number.

A pull-tab manufacturer may distribute pull-tabs to only licensed pull-tab distributors.

A pull-tab manufacturer shall report monthly to the department on each series of pull-tabs sold.

Sec. 05.15.183 establishes the requirement for a pull-tab distributor's license.

A person may not distribute pull-tabs without a license issued by the department.

Pull-tabs may be distributed only from a location in the state.

A pull-tab distributor shall report each month on the pull-tab games distributed.

A pull-tab distributor shall pay each month a tax of three percent of the retail value of each pull-tab series sold.

The department may suspend or revoke a pull-tab distributor's license if the licensee does not comply with this section.

Sec. 05.15.185 establishes requirements for the distribution of pull-tab games.

Sec. 05.15.187 establishes requirements for the operation of pull-tab games.

A municipality or qualified organization may operate pull-tab games. Pull-tabs may be obtained only from licensed pull-tab distributors.

A municipality or qualified municipality that sells pull-tabs without the assistance of a licensed operator may sell up to \$500,000 in pull-tabs each year. The

municipality or qualified organization may sell more than \$500,000 in pull-tabs in a year if it pays a fee of one percent of the retail value of pull tabs sold above the \$500,000 level. The sale of pull-tabs in an establishment licensed by the Alcoholic Beverage Control Board is not considered the same as the sale of pull-tabs with the assistance of an operator.

A municipality or qualified organization may not sell more than \$300,000 in pull-tabs if it utilizes an operator to conduct the pull-tab games on its behalf.

Pull-tabs from different series may not be sold at the same location on the same day.

A pull-tab series may not be sold at more than one location on the same day.

A pull-tab series may not be withdrawn from sale until all pull-tabs in the series are sold.

Each municipality, qualified organization, or operator that conducts a pull-tab game shall maintain records of each person who wins a prize of \$25 or more and shall report each month to the department on pull-tab sales.

Sec. 05.15.189 establishes the requirements for the sale of pull-tabs in establishments licensed by the Alcoholic Beverage Control Board.

An operator's license is not required for a licensed establishment to sell pull-tabs.

Pull-tabs may be sold from only one series of pull-tabs each day and under the authority on only one permit each day.

The municipality or qualified organization under whose permits pull-tabs are sold shall purchase the pull-tabs from a licensed distributor and deliver them to the licensed establishment. The municipality or qualified organization shall be paid its share of the net proceeds at the time that it delivers the pull-tabs to the licensed establishment. The municipality or qualified organization shall receive at least 50 percent of the net proceeds from the sale of pull-tabs.

The licensed establishment shall maintain records of prize winners and shall provide this information to the municipality or qualified organization each month.

Section 18. Section 18 of the bill repeals and reenacts AS 05.15.200(b) to provide that a person is guilty of perjury if the person signs a declaration that the facts in a document filed under AS 05.15 is true under penalty of perjury while knowing that the facts are not true.

Section 19. Section 19 of the bill repeals and reenacts the definition of the "net proceeds".

Section 20. Section 20 of the bill amends the definition of "political organization" to include a candidate or group registered with the Alaska Public Offices Commission and candidates or nominees for President or Vice President of the United States or candidates for the United States Congress.

Section 21. Section 21 of the bill amends the definition of "qualified organization" to require that the organization be in existence for only three years rather than five years before the organization can qualify to conduct games of chance or contests of skill.

Section 22. Section 22 of the bill amends the definition of "raffle and lottery" to exclude pull-tab games.

Section 23. Section 23 of the bill defines "authorizing permittee", "commissioner", "department", "distribute", "operator", "pull-tab game", "series", and "significant interest".

Section 24. Section 24 of the bill amends AS 29.45.650(f) to provide that a borough may not levy a sales tax on the sale of tickets, chances, bingo cards, or pull-tabs in an activity licensed under AS 05.15.

Section 25. Section 25 of the bill makes a technical amendment of AS 29.45.650 in order to conform with Section 24.

Section 26. Section 26 of the bill amends AS 29.45.700(a) to provide that a city may not levy a sales tax on the sale of tickets, chances, bingo cards, or pull-tabs in an activity licensed under AS 05.15.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600

November 6, 1987

Hon. Dave Donley, Chair
House Labor and Commerce Committee
311 "C" Street, Suite 450
Anchorage, Alaska 99503

RECEIVED

NOV 10 1987

Re: Pull-tabs in bars
Our File: 663-87-0531

Dear Representative Donley:

Your aide, Ginger Baim, asked me last week, when I stopped at your Anchorage office, to confirm in writing my oral response last May to your May 4, 1987, request for our opinion on the legality under current law of selling pull-tabs on premises where alcohol is served by the drink (i.e., in bars). This letter is confirmation that, in our opinion, selling pull-tabs in bars is legal under current law, but only if the pull-tabs are sold by a charitable gaming permittee under AS 05.15 and 15 AAC 105.

There is no specific prohibition against selling pull-tabs in bars as there is against the conduct of bingo games in bars (15 AAC 105.110(12)). Such a prohibition was included in the regulation amendments proposed by the Department of Revenue last fall, but has been eliminated from the revised amendments this fall. However, as suggested in your May, 1987 memorandum, a charitable gaming permittee selling pull-tabs in a bar must comply with all of the provisions of AS 05.15 and 15 AAC 105. These include the limitations of AS 05.15.150 and 05.15.160 and 15 AAC 105.260, .280, and .290 on the use of proceeds and on authorized expenses. Also applicable, of course, is the requirement of 15 AAC 105.210 that a member (of the permittee organization in charge) or a designated alternate member be present during the conduct of a gaming activity conducted under a permit. If a permittee violates or allows someone else to violate these provisions on its behalf, the permit would be subject to immediate suspension under AS 05.15.170 and the liquor license involved would also be placed in jeopardy under AS 04.11.370(8). So, for example, if a permittee allows a bar owner or employee, who is not the designated member in charge of its pull-tab sales, to sell pull-tabs in violation of 15 AAC 105.210, or if the permittee allows anyone selling pull-tabs to keep a percentage of the sale receipts in violation of AS 05.15.160(c), both the

Hon. Dave Donley, Chair
House Labor and Commerce Committee
File no. 663-87-0531

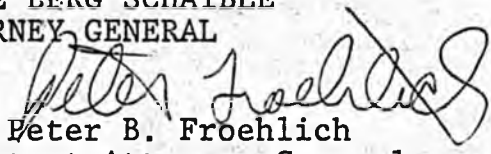
November 6, 1987
Page 2

charitable gaming permit and the liquor license are placed at risk.

I hope this belated written response to your inquiry is helpful. Please let me know if you have any further questions. I will look forward to working with you and the department to revise HB 299, concerning AS 05.15, during the upcoming session.

Sincerely,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: 
Peter B. Froehlich
Assistant Attorney General

PBF:cb

cc: Hugh Malone, Commissioner
Sally Smith, Director
Division of Public Services
Department of Revenue

MEMORANDUM

State of Alaska

TO: Sally Smith, Director
Div. of Public Services
Dept. of Revenue

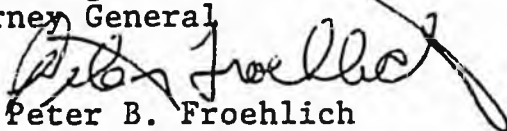
DATE: May 7, 1987

FILE NO.:

THRU: TELEPHONE NO.: 465-3600

SUBJECT: Multiple permit
lotteries

FROM: Grace Berg Schaible
Attorney General

By: 
Peter B. Froehlich
Assistant Attorney General

You have asked me to confirm in writing my recent oral advice to you concerning the illegality of proposals by several charitable gaming permittees to combine their permits and jointly conduct large scale lotteries awarding prizes exceeding the \$200,000 annual prize limit set by 15 AAC 109.120. I have also discussed this question with Mike Landa of Alaska Ticket Brokers and Bob Kern of the Resource Center for Parents and Children and the Alaska Non-Profit Lottery, all in Fairbanks, and with Ed Flanagan in Representative Boyer's office.

The proposals in question would result in lotteries that would exceed the \$200,000 annual prize limit set by 14 AAC 105.120(4). The argument has been advanced that, if a number of charitable gaming permittees join together to cooperatively conduct the lottery, they could aggregate their respective \$200,000 annual prize limits. In other words, if 10 permittees joined to conduct one lottery, that lottery could award \$2,000,000 in prizes. This rationalization is not acceptable, because it does not fit within the clear meaning and apparent intent of AS 05.15 and 15 AAC 05.

The starting point for analysis of any question about what sort of gambling is permitted under our statutes in regulations is that gambling in Alaska, in general, is a crime under AS 11.66.200 -- 280. However, a narrow exception has been made for certain limited forms of charitable gaming, including lotteries, conducted by qualified organizations holding permits issued by the commissioner of revenue under AS 05.15.100. The permits grant a privilege rather than a right (AS 05.15.110) and permittees must comply with regulations adopted by the commissioner under AS 05.15.060 and 130. Unfortunately, both AS 05.15 and the regulations so far adopted under it (15 AAC 105) are badly in need of updating and revision, but attempts in this direction have not yet been successful.

15 AAC 105.120 is the only current regulation that deals specifically with the conduct of lotteries. Ten other regulations (15 AAC 105.210 -- .290), and three statutes

Sally Smith, Director
Division of Public Services
Department of Revenue

May 7, 1987
Page 2

(AS 05.15.080, 150, and 160) apply to the conduct, accounting, and reporting of all types of charitable gaming activities conducted by permittees. In addition to the \$200,000 annual prize limit in 15 AAC 105.120(4), the only other pertinent parts of that regulation are paragraphs (6) and (7) which provide as follows:

(6) All raffle or lottery tickets and stubs shall be serially numbered consecutively, and the permit number as shown on the permit issued by the Commissioner of Revenue shall be imprinted on each ticket stub.

(7) Any and all tickets issued in any raffle or lottery must be accounted for to the permittee organization at the conclusion of each raffle or lottery. (Emphasis added)

The underlined language together with the similar singular language of AS 05.15 emphasize that the narrow exception authorizing limited charitable gaming is only for individual permittee organizations to conduct certain relatively small scale activities, including lotteries, themselves.

If a lottery awarding over \$200,000 is to be legally conducted in Alaska, regardless of how many permittees are involved, our laws must first be changed. In the absence of legislation, the commissioner of revenue could raise the prize limit itself or perhaps even adopt a regulation specifically authorizing and setting rules for the conduct of cooperative or aggregate lotteries and other gaming activities.

Under existing statutes and regulations, though, no lotteries conducted by AS 05.15 permittees can exceed the \$200,000 annual prize limit set by 15 AAC 105.120(4), likewise, all such lotteries must comply with the ticket marking and accounting requirements on 15 AAC.120(6) and (7), as well as the more broadly applicable requirements of 15 AAC 105.210 -- 290 like the presence of a member in charge requirement of 15 AAC 105.210 and the authorized expense limitations of 15 AAC 105.220 and AS 05.15.160.

Please let me know if we can provide further assistance.

PBF:nb

cc: Representative Dave Donley
Representative Mark Boyer
Mike Landa
Bob Kern

ALASKA CHARITABLE GAMES ASSOCIATION

(907) 243-7003 (Anchorage area)
 1-800-478-7003 (In-state toll free)
 1-800-544-2246 (Out-of-Alaska toll free)

A Trade Association
 to protect and promote
 Alaska's gaming industry

390' Arkansas Drive Anchorage, AK 99517

MEMBERSHIP LIST (Page 1)

<u>REC#</u>	<u>CITY</u>	<u>NAME</u>	<u>DISTRICT</u>
8534	Fairbanks	Kila, Inc.	2
8535	Anch	St. Vincent de Paul	3
8536	Nome	Nome Kennel Club	6
8537	Anch	Alaska Health Project	3
8538	Kodiak	Kodiak American Legion #17	4
8539	Ketchikan	Ketchikan VFW Post #4352	1
8542	Kenai	Peninsula Oilers	4
8543	Kenai	Kenai Eagles Auxiliary Aerie #3525	4
8544	Savoonga	City of Savoonga	86
8547	Anch	Alaska Sport Fishing Assoc.	3
8548	Barrow	Pt. Barrow Lions	7
8549	Fairbanks	Alaska Crippled Children & Adults	2
8550	Ketchikan	Ketchikan Eagles Aerie #162	1
8551	Homer	Kachemak Bay Lions Club	4
8552	Bethel	Assoc. of Village Council Pres.	5
8553	Hyder	Hyder Community Association	1
8555	Fairbanks	Greater Fairbanks Chamber of Commerce	2
8559	Anch	AFL-CIO	3
8560	Anch	Spenard Lions	3
8561	Anch	Akeela House	3
8562	Anch	ARCA	3
8563	Anch	Mt. McKinley Lions	3
8564	Anch	Holy Family Cathedral	3
8565	Anch	Painters Local #1140	3
8566	Anch	Painters Apprentice & Training	3
8567	Anch	Alpine Alternative	3
8568	Anch	Alaska Dance Theater	3
8569	Anch	Miss Alaska Pageant	3
8570	Anch	Captain Cook JayCees	3
8571	Anch	Work Preservation Trust	3
8572	Anch	Barrier Free	3
8573	Arctic Vill.	Arctic Village Council	7
8574	Kenai	Kenai Eagles Aerie #3525	4
8577	Palmer	Mat-Su Miners Baseball	3
8578	Anch	Alaska Democratic Party	3
8579	Anch	Anchorage BUCS Baseball	3
8580	Homer	Homer American Legion Post#16 Auxiliary	4
8581	Ft. Wainwri	Cheechako Lions Service	2
8582	Anch	Anchorage Sports Assn.	3
8583	Bethel	Friends of KYUK (Bethel Broadcasting, Inc.)	5
8584	Ketchikan	Alaska Indoor Sports	1
8585	Bethel	Bethel VFW Post #10041	5

42 Total Members

ALASKA CHARITABLE GAMES ASSOCIATION

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3904 Arkansas Drive Anchorage, AK 99517

MEMBERSHIP LIST (Page 2)

<u>REC#</u>	<u>CITY</u>	<u>NAME</u>	<u>DISTRICT</u>
8586	Fairbanks	Fairbanks Amateur Hockey Assn.	2
8587	Juneau	Juneau VFW Post #5559	1
8588	Anch	UAA Alumni Assn.	3
8589	Nome	Nome Volunteer Fire Dept.	6
8590	Anch	Muscular Dystrophy Assn.	3
8591	Teller	Teller Traditional Bingo	6
8592	Haines	Haines American Legion Post #12	1
8593	Anch	Knights of Columbus Council #4859	3
8594	Wasilla	Wasilla American Legion Post #35	3
8595	Fairbanks	Barbara Johnson	2
8596	Fairbanks	Institute of Alaska Native Arts, Inc.	2
8597	Anch	Alaska Credit Union League	3
8598	Ancho	Alaska Bingo Supply	3
8599	Kenai	Kenai American Legion Post #20	4
8600	Kenai	Kenai American Legion Post #20 Auxiliary	4
8601	Dillingham	City of Dillingham	5
8603	Chugiak	Chugiak Senior Citizens	3
8604	Wasilla	Westside/Alano Bingo	3
8605	Anch	Alaska Center for the Environment	3
8606	Kiana	Kiana Bluff Jumpers Search & Rescue	6
8607	Nome	Nome Eskimo Community	6
8608	Kotzebue	Kotzebue Lions	6
8609	Anch	Nat'l Multiple Sclerosis Society	3
8610	Anch	Alaska Laborers Training School	3
8611	Anch	Alaska Bingo Management	3
8612	Anch	Big Brothers/Big Sisters	3
8613	Anch	The North Pacific Rim	3
8614	Bethel	Bethel VFW Post #10041 Auxiliary	5
8615	Chevak	Chevak Traditional Council	5
8616	Kake	City of Kake Bingo	1
8617	Anch	Special Olympics	3

5 (as of 7/24/87)
1 (71 total)

ALASKA CHARITABLE GAMES ASSOCIATION

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1-800-544-2246 (Out-of-Alaska toll free)

A Trade Association
to protect and promote
Alaska's gaming industry

5904 Arkansas Drive Anchorage, AK 99517

Members who have played Pull-Tabs for ACGA
(as of 7/1/87 - in random order)

<u>CITY</u>	<u>NAME</u>
Ketchikan	VFW Post #4352 - Honeydew Lounge
Kenai	Peninsula Oilers
Fairbanks	Kila, Inc.
Barrow	Pt. Barrow Lions
Savoonga	City of Savoonga
Ketchikan	Eagles Aerie #162
Arctic Vil.	Arctic Village Council
Anch	AFL-CIO
Anch	Spensard Lions
Anch	Akeela House
Anch	ARCA
Anch	Mt McKinley Lions
Anch	Holy Family Cathedral
Anch	Painters Local #1140
Anch	Painters Apprentice & Training
Anch	Alpine Alternative
Anch	Alaska Dance Theater
Anch	Miss Alaska Pageant
Anch	Captain Cook JayCees
Anch	Work Preservation Trust
Anch	Barrier Free
Anch	Alaska Sport Fishing Assoc.
Palmer	Mat-Su Miners Baseball
Anch	Alaska Democratic Party
(25) Anch	Anchorage BUCS Baseball

BILL NO:

HB 299

DATE:

May 4, 1987

TITLE:

"An Act revising state gambling laws."

CONTACT:

Maj. Walter J. Gilmour

DEPARTMENT OF PUBLIC SAFETY

To legalize certain types of gambling statewide and provide procedures for issuing permits, collecting fees and monitoring gambling activities.

This proposed legislation would legalize certain types of gambling statewide and provide procedures for obtaining permits, accessing and collecting fees, conducting background checks and criminal history checks on certain employees, and monitoring the activities of the industry. The only portion of this legislation which will affect the Department of Public Safety is the background investigations, criminal history checks and fingerprinting of applicants, which would require a full-time position of an additional clerical person (Clerk IV) to perform the above functions and maintain files on same.

The Department of Public Safety is neutral on this legislation.


ARTHUR ENGLISH
Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: HB 299

Publish Date: _____

REQUEST

Revision Date: _____

Title: "An Act revising state gambling laws."

Sponsor: Labor & Commerce Committee

Requestor: House Labor & Commerce

Agency Affected: Public Safety

BRU: Alaska State Troopers

Components: Detachments & CIB

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		32.7	33.7	34.7	35.7	36.8
TRAVEL						
CONTRACTUAL		1.4	1.4	1.5	1.5	1.6
SUPPLIES		3.0	3.1	3.2	3.3	3.4
EQUIPMENT		12.2				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		49.3	38.2	39.4	40.5	41.8
CAPITAL						
REVENUE						

FUNDING:: (Thousands of Dollars)

GENERAL FUNDS		49.3	38.2	39.4	40.5	41.8
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

See attached schedule.

Prepared by: Francis C. Allan
Division: Alaska State Troopers

Phone: 269-5691

Date: 5/4/87

Approved by Commissioner: Arthur English
Agency: Public Safety

Date: 5/4/87

Distribution (by preparer):

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

JNR
5/5/87

CONTINUATION OF FISCAL NOTE ANALYSIS
For Bill/Resolution No. HB 299

The Division of Alaska State Troopers anticipates being responsible for providing background checks on organizations and individuals who apply for gambling permits. It is expected that AST will receive from the applicants partially completed applications (with funds attached to send with a certified fingerprint card to the F.B.I.). Based upon an estimate of 1,200 background checks per year, a full-time Clerk IV will be required, based upon our experience with Security Guard Licensing. Program Receipts from receipt of permit requests are not anticipated to offset any costs to DPS. Background checks will involve APSIN/MLETS/AAFIS checks, processing of fingerprint cards to the FBI (3 - 4 months delay) and filing of permit application checks. A micro computer will be utilized to maintain data on applicants and to meet reporting requirements needed under this bill. A 3% inflation factor has been added to costs after FY88 for line items except equipment which is needed in the first year only.

Personal Services

Clerk IV, Range 9, Step A, PFT	\$21,564	
Overtime 120 hours	1,990	
Subtotal	23,554	
Benefits	4,490	
SBS	1,444	
Health	3,214	
Total Personal Services		32,702

Contractual

Maintenance on computer	400	
Telephone costs	1,000	
Total Contractual		1,400

Supplies

Forms (Applications, licenses)	2,000	
Office Supplies	750	
Miscellaneous	250	
Total Supplies		3,000

Equipment

Compaq Computer, Software, Printer, etc.	9,000	
Desk	691	
Chair	345	
Computer table	300	
Side chair	184	
Filing cabinets (6)	1,338	
Storage cabinet	385	
Total Equipment		12,243

Total		49,345
-------	--	--------

Position Title Clerk IV		No. of Positions 1	Range/Step 9/A	Barg. Unit GGU
Time Status PFT	Staff Months 12.0	Location Anchorage		Election District 7-12
		Justification		
Type of Expenditure		Amount		
1	2	3		
Salary	21,564			
Benefits	4,490			
Premium Pay	1,990			
Other SBS & Health	4,658			
Total Personal Services		32.7		
Travel				
Contractual		1.4		
Commodities		3.0		
Equipment		12.2		
Other				
Total Cost		49.3		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	49.3		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

This position will be responsible for processing applications and recording all related data, including fingerprint checks, criminal history checks to include APSIN/NLETS/AAFIS checks, as well as answering questions from the public and applicants. The position will be responsible for developing and implementing regulations relating to business. This Clerk IV must be a notary public in order to be able to notarize applications. The Clerk IV must be able to fingerprint applicants. This position will need to have a general bookkeeping knowledge in order to be able to handle the processing of application fees.

**Request For
New Position**

Agency Public Safety
 BRU Alaska State Troopers
 Component Director's Office

Page 5 of 3
 Revised Date

FY 88

STATE OF ALASKA
THE LEGISLATURE

338-4534
POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

May 1, 1987

SUBJECT: Section-by-section analysis of HB 299
revising the state gaming laws

TO: Representative Dave Donley

FROM: George Utermohle *GU*
Legislative Counsel

The following is the section-by-section analysis of HB 299, an Act revising the state gaming law, requested by Ginger Baim of your staff.

A section-by-section analysis or summary of a bill should not be considered an authoritative interpretation of a bill. The bill itself is the best statement of its contents.

Section 1. Section 1 of the bill repeals and reenacts AS 05.15.020.

The annual permit fee for a municipality or qualified organization is set at \$20 if the municipality or qualified organization had gross receipts of less than \$20,000 from games of chance and contests of skill during the prior year. The permit fee is \$50 for a municipality or qualified organization that grossed between \$20,000 and \$100,000 during the prior year. The permit fee is \$100 for a municipality or qualified organization that grossed more than \$100,000 during the prior year.

In addition to the permit fee a municipality or qualified organization that has gross receipts of \$20,000 to \$100,000 shall pay a fee of one percent of its net proceeds to the department. A municipality or qualified organization that has gross receipts exceeding \$100,000 shall pay a fee of 3% of the net proceeds to the department.

Section 2. Section 2 of the bill amends AS 05.15 by adding a new section AS 05.15.025.

Money received by the Department of Revenue under AS 05.15 shall be deposited in the general fund. The commissioner of administration shall separately account for the money. The annual estimated balance in the account may be appropriated by the legislature to the Department of Revenue to fund enforcement of AS 05.15.

Section 3. Section 3 of the bill amends AS 05.15.030 by adding a new subsection AS 05.15.030(c).

If a permittee changes the location of an activity the permittee shall notify the department and the local government within 30 days after the change.

Section 4. Section 4 of the bill repeals and reenacts AS 05.15.060.

The Department of Revenue shall adopt regulations necessary to carry out AS 05.15. Among the regulations that the department shall adopt are regulations concerning

1. issuance of permits and licenses;
2. procedures for determining net proceeds;
3. immediate revocation of permits and licenses;
4. financial statements;
5. investigation of permittees, licensees, and their employees;
6. exclusion of persons convicted of a felony within the preceding five years or of a crime involving moral turpitude or of a violation of a gambling law from participation as a permittee, licensee, or an employee of a licensee or permittee;
7. method and manner of conducting permitted activities and of awarding prizes;
8. limits on the activities that can be conducted under a permit;
9. methods of accounting for receipts, keeping records, and banking receipts;
10. disposition of funds held by a permittee or licensee when a permit or license is surrendered, revoked, or invalidated;
11. restrictions on employees of the Department of Fish and Game in salmon classics; and
12. other matters necessary to implement AS 05.15.

Section 5. Section 5 of the bill amends AS 05.15.070 in order to allow the commissioner of revenue to examine the books and records of operators, manufacturers of pull-tabs, and distributors of pull-tabs.

Section 6. Section 6 of the bill repeals and reenacts AS 05.15.080.

A municipality or qualified organization that has gross receipts of \$25,000 or more during a calendar quarter shall file a report with the department. However, a municipality or qualified organization that conducts only a raffle or lottery during the quarter is not required to report until the raffle or lottery is completed.

A municipality or qualified organization shall file an annual report with the department as well as any additional fee due to the department under AS 05.15.020(b).

Section 7. Section 7 of the bill adds new sections to AS 05.15.

Sec. 05.15.083 establishes the duty of operators to report to the department.

An operator shall file a monthly report with the department. However, an operator that conducts only a raffle or lottery during the month does not have to file a report until the raffle or lottery is completed.

An operator shall file a quarterly report with the department. The quarterly report shall contain information included in the employer's quarterly federal tax return (IRS Form 941) and in the employer contribution and wage reports to the Department of Labor that are prepared by the operator. However, an operator that conducts only a raffle or lottery during the quarter does not have to file a report until the raffle or lottery is completed.

An operator shall file an annual report with the department. The annual report shall contain information included in the employer's wage and tax statements (IRS Form W-2) for each employee.

Sec. 05.15.087 establishes the duty of an operator to report to an authorizing permittee.

An operator shall report monthly to each authorizing permittee for whom the operator conducts a game of chance or contest of skill. The operator shall pay each authorizing permittee the net proceeds for the month at the same time as the operator makes the monthly report.

An operator shall provide a quarterly report summarizing the activities during the prior calendar quarter for each authorizing permittee.

An operator shall provide an annual report summarizing the activities during the prior calendar year for each authorizing permittee.

Section 8. Section 8 of the bill amends AS 05.15 by adding a new section AS 05.15.095.

Applications and reports to the department shall be signed under penalty of perjury by the representative of a permittee or licensee.

The department may extend the deadline for a report due to the department by 30 days for a reasonable cause. The department may not extend the payment date for a fee due to the department.

A municipality, qualified organization or operator may not conduct an activity while a report or fee is delinquent.

A delinquent fee accrues interest at the rate of 12 percent per year.

Section 9. Section 9 of the bill amends AS 05.15.100(a) to provide for the operation of pull-tab games by municipalities and qualified organizations.

Section 10. Section 10 of the bill amends AS 05.15.100 by adding a new subsection to provide for the issuance of licenses to operators who conduct games of chance and contests of skill on the behalf of municipalities and qualified organizations.

Section 11. Section 11 of the bill amends AS 05.15 by adding new sections.

Sec. 05.15.112 requires each municipality and qualified organization to designate a member in charge.

The member in charge is responsible for all records and reports required of a municipality or qualified organization. The member in charge shall be a bona fide member of the qualified organization or an employee of the municipality.

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OK

Representative Donley

Page 5

May 1, 1987

The member in charge shall monitor the performance of operators engaged by the member's organization.

Alternate members in charge may also be appointed.

Sec. 05.15.115 establishes requirements for contracts between municipalities and qualified organizations and operators.

The contract between a municipality or a qualified organization and an operator shall include the amount and form of compensation paid to the operator, the term of the contract, the activities to be conducted on the behalf of the permittee, the location where activities are to be conducted, and the name and address of the member in charge.

The permittee may not contract with more than one operator to conduct the same activity. The different activities are listed.

An operator shall submit copies of contracts, and amendments to contracts, to the department 72 hours before conducting activities under the contract or amendment.

Section 12. Section 12 amends AS 05.15 by adding new sections.

Sec. 05.15.125 establishes requirements for an operator's license.

A person may not conduct an activity under AS 05.15 on behalf of a municipality or qualified organization unless the person has received an operator's license from the department.

The department may issue an operator's license to a person who applies for a license, pays an annual fee of \$500, discloses the identity of persons having a significant interest in the applicant, discloses the identity of persons employed by the applicant in a managerial or supervisory capacity, submits proof of liability insurance, and posts a bond of \$25,000 for each permit under which the applicant will operate up to a maximum of \$100,000.

The department may not issue an operator's license to an applicant, if the applicant, a person owning a significant

interest in the applicant, or a managerial or supervisory employee of the applicant has been convicted of a felony within the preceding five years or of a crime involving moral turpitude or of a municipal, state, or federal gambling law.

A person may not hold a significant interest in a licensed operator if the person has been convicted of a felony within the preceding five years or of a crime involving moral turpitude or of a violation of municipal, state, or federal gambling law.

An operator may not employ a person in a managerial or supervisory capacity if the person has been convicted of a felony within the preceding five years or of a crime involving moral turpitude or of a violation of a municipal, state, or federal gambling law.

Sec. 05.15.128 requires the department to revoke an operator's permit if the operator does not report a profit of 15 percent or more during two consecutive quarters based on the total operation of the operator or if the operator does not pay 20 percent of the profit to the authorizing permittee on whose behalf the activity is conducted. The operator may appeal the revocation but an audit by the department is conclusive.

Section 13. Section 13 of the bill amends AS 05.15.140(b) to require a municipality or qualified organization to disclose whether the person who operates activity for the municipality or qualified organization has been convicted of a felony within the preceding five years or of a crime involving moral turpitude or of a violation of a municipal, state, or federal gambling law.

Section 14. Section 14 of the bill amends AS 05.15.140(c) to prohibit the department from issuing a permit to a person who has been convicted of a felony within the preceding five years or of a crime involving moral turpitude or of a violation of a municipal, state, or federal gambling law.

Section 15. Section 15 of the bill amends AS 05.15.160 relating to expenses that may be deducted from gross receipts.

Section 16. Section 16 of the bill amends AS 05.15 by adding new sections.

Sec. 05.15.165 establishes the duty of an operator. An operator shall pay net proceeds to the authorizing permittee by check.

The operator may not incur unauthorized expenses. The department may order the operator to refund to the authorizing permittee, any amount withheld as an unauthorized expense plus interest at 1.5% per month.

The operator shall post a copy of the operator's license and the permit of each authorizing permittee with whom the operator has a contract to conduct activities at the location.

The operator shall pay employees of the operator a reasonable wage.

The operator shall obtain liability insurance for each location where the operator conducts games of chance and contests of skill. The operator shall provide proof of insurance to the department. The operator and the insurer shall inform the department of changes in or cancellation of insurance. If the operator's liability insurance is cancelled, the operator may not conduct games of chance or contests of skill until subsequent insurance is obtained.

The operator shall have its financial records reviewed by a certified public accountant each year. The operator shall submit the results of the review to the department by February 28.

The operator may not charge losses due to bad checks or uncollectable debts against the net proceeds due to the authorizing permittee, extend credit to players, employ house players, or allow employees to play a game conducted by the operator at the location where the employee works for the operator.

Sec. 05.15.167 establishes the requirement that an operator post a bond or security payable to the department and that the bond is first applied against fees, interest, and penalties due to the department. The operator shall inform the department if the bond is cancelled or the security is impaired.

Section 17. Section 17 of the bill amends AS 05.15.180(b) to include bingo games and pull-tab games within the list of

activities that may be conducted in a form and manner different from the way the activities were conducted before January 1, 1959.

Section 18. Section 18 of the bill amends AS 05.15 by adding new sections.

Sec. 05.15.181 establishes the requirements for a pull-tab manufacturer.

A person may not manufacture pull-tabs without a license issued by the department.

The department may issue a pull-tab manufacturer's license to a person who pays an annual fee of \$500.

Each series of pull-tabs manufactured in the state shall bear a serial number.

A pull-tab manufacturer may distribute pull-tabs to only licensed pull-tab distributors.

A pull-tab manufacturer shall report monthly to the department on each series of pull-tabs sold.

Sec. 05.15.183 establishes the requirements for a pull-tab distributor's license.

A person may not distribute pull-tabs without a license issued by the department.

The department may issue a pull-tab distributor's license to a person who pays an annual fee of \$1,000.

Pull-tabs may be distributed only from a location in the state.

A pull-tab distributor shall report each month on the pull-tab games distributed.

A pull-tab distributor shall pay each month a tax of three percent of the retail value less prizes awarded for each pull-tab series sold.

Sec. 05.15.185 establishes requirements for the distribution of pull-tab games.

Sec. 05.15.187 establishes requirements for the operation of pull-tab games.

A municipality or qualified organization may operate pull-tab games. Pull-tabs may be obtained only from licensed pull-tab distributors.

A municipality or qualified municipality that sells pull-tabs without the assistance of a licensed operator may award up to \$500,000 in prizes in pull-tab games each year. The municipality or qualified organization may award more than \$500,000 in prizes in a year if it pays a fee of one percent of the amount awarded in prizes above the \$500,000 level.

A municipality or qualified organization may not award more than \$300,000 in prizes if it utilizes an operator to conduct the pull-tab games on its behalf.

A pull-tab series may not be sold at more than one location on the same day.

Pull-tabs from different series may not be mixed or combined.

A pull-tab series may not be withdrawn from sale until all pull-tabs in the series are sold.

Each municipality or qualified organization that had gross receipts exceeding \$100,000 during the preceding year from activities conducted under AS 05.15 or that is required to report under AS 05.15.080(a) shall maintain for two years a record of each prize of \$25 or more from a pull-tab game and of the pull-tabs sold.

Section 19. Section 19 of the bill repeals and reenacts the definition of the "net proceeds".

Section 20. Section 20 of the bill amends the definition of "qualified organization" to require that the organization be in existence for only three years rather than five years before qualifying to conduct games of chance or contests of skill.

Section 21. Section 21 of the bill repeals and reenacts the definition of "raffle and lottery" to exclude pull-tab games.

Section 22. Section 22 of the bill defines "adjusted gross income", "authorizing permittee", "commissioner",

Representative Donley
Page 10
May 1, 1987

"department", "distribute", "operator", "pull-tab game",
"series", and "significant interest".

Section 23. Section 23 of the bill amends AS 05.15 by adding
a new section AS 05.15.995. AS 05.15 may be cited as the
Alaska Gaming Reform Act.

GU:csh
c8/019

HB

310

STATE OF ALASKA
THE LEGISLATURE

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House Labor & Commerce

March 8, 1988



Official Business

COMMITTEE:
HOUSE LABOR & COMMERCE

DATE: March 8, 1988

SIGN-IN

Subject of meeting:

HB 485 "An Act amending provisions relating to a solicitation for offers to purchase or operate the Alaska Railroad; and providing for an effective date."
 HB 310 "An Act relating to payment under public construction contracts."
 HB 536 "An Act relating to the sale, pricing, and marketing of alcoholic beverages; and prohibiting persons from being on premises involving alcoholic beverages under certain circumstances."
 HB352/SB322 "An Act relating to workers' compensation for an effective date."

and providing

PLEASE PRINT
NAME & TITLE

REPRESENTING

ADDRESS & ZIP

PHONE

DO YOU WANT TO TESTIFY?

SUBJECT: BILL #

Doug RICKEY	Rep. Grossendorf		H W 465-3720	YES	HB 310
PAUL ROLLER	DIV. OF INSURANCE		H W 465 2518	YES	HB 352 322
DON KOCH	" " "		H W 465 2577	AS NEEDED	"
JEFF OTTESEN	DOT/PF		H W 465 2951	AS NEEDED	HB 310
GERALD VALINSKI	AK Railroad	6910 CHAD ANCH 99518	H W 349-7005	AS NEEDED	HB 485
Kesw Terrel	ACC of Alaska	134 No. Franklin	H W 586-7740	yes	HB-310
W. J. H. H. H.			H W		SB 322
Arch. [unclear]	Labor Co. } Labor	1000 1st St. Anchorage	H W 349-6666	Yes	322
Robert Anders	Operating Engineers } Management } Wash. St.	902 W. North Star Lights Blvd Anch	H W 561-5288	yes	322
			H W		



Official Business

COMMITTEE:
HOUSE LABOR & COMMERCE

DATE: March 8, 1988

SIGN-IN

Subject of meeting:

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PLEASE PRINT
NAME & TITLE

REPRESENTING

ADDRESS & ZIP

PHONE

DO YOU WANT TO TESTIFY?

SUBJECT: BILL #

NAME & TITLE	REPRESENTING	ADDRESS & ZIP	PHONE	DO YOU WANT TO TESTIFY?	SUBJECT: BILL #
Doug RICKEY	Rep. Grossendorf		H W 465-3720	YES	HB 310
PAUL ROLLER	DIV. OF INSURANCE		H W 465 2518	YES	HB 352 322
DON KUCH	" " "		H W 465 2577	AS NEEDED	"
JEFF OTTESEN	DOT/PF		H W 465 2951	AS NEEDED	HB 310
GERALD VALINSKI	AK Railroad	6910 CHAD ANCH 99518	H W 349-7005	AS NEEDED	HB 485
Denise VanDerPol	Rehabilitative Specialist	130 Seward St # 212 Juneau 99801	H W 586-6462	Yes	#B SB 322
Joren Rasmussen	D.O.T.	P.O. Box 2 99811	H W 465-2960	if needed	HB 310
			H W		
			H W		
			H W		

February 17, 1988

Memo to File: WFR

CS for House Bill 310

Analysis and comment by Associated General Contractors of Alaska.

ANALYSIS

CS HB 310 modifies several provisions in Title 36 relating to construction and public works contracts.

Section 1 of the proposed legislation amends AS 36.25.020(b) by attempting to broaden the coverage of the "Little Miller Act's" bonding requirements by defining "subcontractor" to include a subcontractor of a subcontractor.

Sections 2 through 4 relate to a new contractor provided sworn statement that: "all of the subcontractors on the project have been paid for the services, materials, and equipment furnished by the subcontractors for the project and the work performed by the contractor under the contract has been inspected and improved for compliance with the contract". Additionally, "subcontractor" would include any person with an express or implied contractual relationship with a contractor with a subcontractor to furnish services, materials or equipment for the project but it does not include an employee.

Section 5 requires that any person who contracts to furnish services, materials, or equipment for a public construction or public works project must give the prime contractor of the project written notice of the contract within 10 days of entering into the contract.

COMMENT

A. Increasing the Scope of Little Miller Act Protection.

Presently the State of Alaska's "Little Miller Act" is modeled after the federal "Miller Act". The purpose is to provide protection to subcontractors, materialmen and laborers engaged in work on public projects exceeding \$100,000. Any contractor bidding more than \$100,000 on a project must supply a performance and payment bond which assures that all persons within the protection of the "Miller Act" will be paid.

Absent "Miller Act" protection, an individual without a direct contractual relationship with a prime contractor is unable to recover. In the private sector, lien laws normally allow certain suppliers or individuals to place a lien on property pending a resolution of their claim for payment. The "Miller Act" was developed as a substitute for a lien. The "Miller Act" allows claims by persons with direct contracts with the prime contractor or with a first tier subcontractor. Those who do not have direct contracts with either of these two are not covered. In other words, materialmen to materialmen are not covered nor are sub-subcontractors sub-subcontractors nor anyone else contracting with a sub-subcontractor. The attached exhibit shows in diagram fashion those who can make a claim on the general contractor's payment bond and those who cannot. Those inside the box can make a claim against the bond and those outside the box can not.

Presently, there are many instances where general contractors who have already paid a subcontractor subsequently end up paying additional claims by sub-subcontractors or material suppliers to a subcontractor, in other words, they pay twice for the same work. The effect of increasing the scope of "Miller Act" coverage will be more and more instances of double payment by the general contractor.

B. Required Sworn Statement

There are two aspects to the sworn statement that must be provided under the proposed legislation.

1. All the subcontractors on the project have been paid for their services, materials and equipment.
2. The work performed by the contractor under the contract has been inspected and approved for compliance with the contract.

I do not understand ~~the~~ what is intended by the language "the work performed by the contractor under the contract has been inspected and approved for compliance with the contract". The contracts referred to are public construction contracts which are usually between a State or a political subdivision of the State and a contractor. Normally these contracts are very thick documents spelling out the rights and responsibilities of both of the parties. Normally, the owner-agencies have numerous inspectors on the job and prior to paying a contractor normally inspect the work done on the contract.

The proposed requirement that a general contractor provide a sworn statement that all the subcontractors on the project have been paid for the services and equipment furnished by subcontractors for the project as a prerequisite for obtaining a second or subsequent progress payment under a construction

contract is not a workable structure for the construction industry.

First, the language does not specify that the attested subcontractor payments are those arising out of the previous pay estimate.

Second, even assuming this structural deficiency is corrected, a general contractor may not be able to determine whether lower tiered subcontractors have been paid. The general contractor has a direct contractual relationship only with his subcontractors.

Third, this structure does not provide for disputes which often occur in construction projects or set-offs which may be taken by a general contractor against a subcontractor who may not have performed a portion of the subcontract.

Fourth, this procedure would have the effect of placing the owner-contracting agency as an arbitrator of contract disputes that arise on a construction project.

Fifth, this proposed legislation will have the effect of stopping all money to a construction project anytime a contractual dispute arises. Thus, the smallest and most picayune dispute between the lowest tiered subcontractor on a job could stop the entire flow of money on a project.

The question that must be asked is why is this needed in addition to the "Miller Act"? The "Miller Act" provides a performance payment bond by the general contractor. This bond assures payment in the event a dispute arises between a general contractor and a subcontractor and the subcontractor ultimately prevails. Under the proposed legislation the capability to stop all of the progress payments on a project is given to lower tiered subcontractors who do not have performance and payment bonds. If the subcontractor is ultimately wrong in its contentions there is no performance and payment bond against which the general contractor can proceed. In a dispute situation, the general contractor must pay out the money and then seek a refund from the subcontractor. This is contrary to the philosophical underpinnings of the "Miller Act".

C. Notice by Subcontractors

The required notice that any subcontractor on a public works project notify the prime contractor within 10 days of entering into a contract is a good one. I suggest that language be broadened to include furnishing services or providing supplies and that some sanction be structured in the event a subcontractor or supplier fails to provide the notice required by this section. The most obvious sanction is precluding the subcontractor from filing a "Miller Act" claim. In this way the general contractor will be informed of the names of all potential "Miller Act"

claimants prior to payment of any money. The general contractor can then insure that those persons are paid prior to closing the job out. Any subcontractors not providing this notice requirement should be precluded from filing a "Miller Act" claim. It will avoid the current situation where many general contractors pay twice for having the same work performed.

In summary, we are opposed to this legislation and think the structure suggested is not workable. More important perhaps is the focus or intent of the legislation. It seems apparent the legislation is aimed at protecting lower tiered subcontractors in situations where they are not getting paid on public construction projects.

First, we want to be clear that AGC clearly supports the prompt payment of all subcontractors on any type of construction project. For example, AGC model contracts clearly provide that subcontractors will be promptly paid (usually within 7 days of receipt of the money by the general contractor). What we oppose is a system where the owner-agency comes between the direct contractual relationship of the general contractor and his subcontractors or between the other tiers of subcontractors on a construction project.

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

SUBCONTRACT FOR BUILDING CONSTRUCTION



TABLE OF ARTICLES

1. AGREEMENT
2. SCOPE OF WORK
3. SCHEDULE OF WORK
4. CONTRACT PRICE
5. PAYMENT
6. CHANGES, CLAIMS AND DELAYS
7. CONTRACTOR'S OBLIGATIONS
8. SUBCONTRACTOR'S OBLIGATIONS
9. SUBCONTRACT PROVISIONS
10. RECOURSE BY CONTRACTOR
11. LABOR RELATIONS
12. INDEMNIFICATION
13. INSURANCE
14. ARBITRATION
15. CONTRACT INTERPRETATION
16. SPECIAL PROVISIONS

This Agreement has important legal and insurance consequences. Consultation with an attorney and insurance consultant is encouraged with respect to its completion or modification and particularly when used with other than AIA A201 General Conditions of the Contract for Construction, August 1976 edition.

5.2 PROGRESS PAYMENTS

5.2.1 APPLICATION. The Subcontractor's progress payment application for work performed in the preceding payment period shall be submitted to the Contractor per the terms of this Agreement and specifically Articles 5.1.1, 5.2.2, 5.2.3, and 5.2.4 for approval of the Contractor and _____.

The Contractor shall forward, without delay, the approved value to the Owner for payment.

5.2.2 RETAINAGE/SECURITY. The rate of retainage shall not exceed the percentage retained from the Contractor's payment by the Owner for the Subcontractor's Work provided the Subcontractor furnishes a bond or other security to the satisfaction of the Contractor.

If the Subcontractor has furnished such bond or security; its work is satisfactory and the Contract Documents provide for reduction of retainage at a specified percentage of completion, the Subcontractor's retainage shall also be reduced when the Subcontractor's Work has attained the same percentage of completion and the Contractor's retainage for the Subcontractor's Work has been so reduced by the Owner.

However, if the Subcontractor does not provide such bond or security, the rate of retainage shall be _____%.

5.2.3 TIME OF APPLICATION. The Subcontractor shall submit progress payment applications to the Contractor no later than the _____ day of each payment period for work performed up to and including the _____ day of the payment period indicating work completed and, to the extent allowed under Article 5.2.4, materials suitably stored during the preceding payment period.

5.2.4 STORED MATERIALS. Unless otherwise provided in the Contract Documents, and if approved in advance by the Owner, applications for payment may include materials and equipment not incorporated in the Subcontractor's Work but delivered and suitably stored at the site or at some other location agreed upon in writing. Approval of payment application for such stored items on or off the site shall be conditioned upon submission by the Subcontractor of bills of sale and applicable insurance or such other procedures satisfactory to the Owner and Contractor to establish the Owner's title to such materials and equipment or otherwise protect the Owner's and Contractor's interests therein, including transportation to the site.

5.2.5 TIME OF PAYMENT. Progress payments to the Subcontractor for satisfactory performance of the Subcontractor's Work shall be made no later than seven (7) days after receipt by the Contractor of payment from the Owner for such Subcontractor's Work.

5.2.6 PAYMENT DELAY. If for any reason not the fault of the Subcontractor, the Subcontractor does not receive a progress payment from the Contractor within seven (7) days after the date such payment is due, as defined in Article 5.2.5, then the Subcontractor, upon giving an additional seven (7) days written notice to the Contractor, and without prejudice to and in addition to any other legal remedies, may stop work until payment of the full amount owing to the Subcontractor has been received. To the extent obtained by the Contractor under the Contract Documents, the contract price shall be increased by the amount of the Subcontractor's reasonable costs of shut-down, delay, and start-up, which shall be effected by appropriate Change Order.

If the Subcontractor's Work has been stopped for thirty (30) days because the Subcontractor has not received progress payments as required hereunder, the Subcontractor may terminate this Agreement upon giving the Contractor an additional seven (7) days written notice.

5.3 FINAL PAYMENT

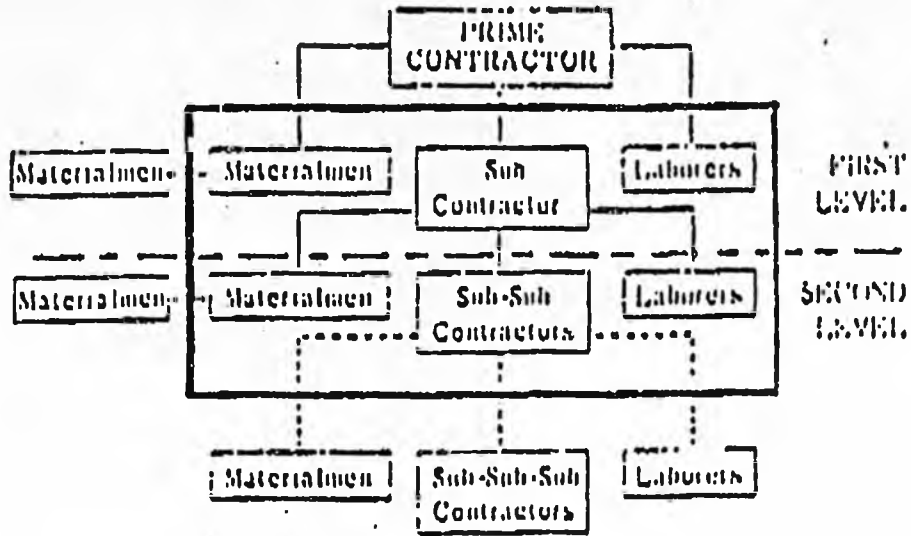
5.3.1 APPLICATION. Upon acceptance of the Subcontractor's Work by the Owner, the Contractor, and if necessary, the Architect, and upon the Subcontractor furnishing evidence of fulfillment of the Subcontractor's obligations in accordance with the Contract Documents and Article 5.3.2, the Contractor shall forward the Subcontractor's application for final payment without delay.

5.3.2 REQUIREMENTS. Before the Contractor shall be required to forward the Subcontractor's application for final payment to the Owner, the Subcontractor shall submit to the Contractor:

- (a) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Subcontractor's Work for which the Owner or his property or the Contractor or the Contractor's surety might in any way be liable, have been paid or otherwise satisfied;
- (b) consent of surety to final payment, if required;
- (c) satisfaction of required closeout procedures; and
- (d) other data if required by the Contractor or Owner, such as receipts, releases, and waivers of liens to the extent and in such form as may be designated by the Contractor or Owner.

Final payment shall constitute a waiver of all claims by the Subcontractor relating to the Subcontractor's Work, but shall in no way relieve the Subcontractor of liability for the obligations assumed under Article 9.10 hereof, or for faulty or defective work appearing after final payment.

5.3.3 TIME OF PAYMENT. Final payment of the balance due of the contract price shall be made to the Subcontractor:



EXHIBIT

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HB 310
PUBLISH DATE: 5/12/87

REQUEST: FISCAL NOTE

Revision Date:
Title: An Act relating to payment under public construction contracts.
Sponsor: Grussendorf
Requestor:

Agency Affected: DOT&PF
BRU: Engineering & Operations
Components:

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTURAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (THOUSANDS OF DOLLARS)

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

POSITIONS:

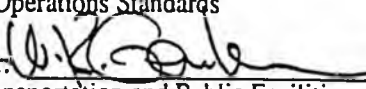
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Current construction contract language used by DOT&PF requires payment by the (prime) contractor to all subcontractors within 7 days following receipt of payment. As this bill is currently written no additional fiscal impacts during construction administration are anticipated except where a fraudulent statement is made under paragraph (f). Should the department be involved in litigation surrounding fraudulent statements that may be made, litigation and damage costs may arise. As these costs are both speculative and not subject to accurate estimation no fiscal impact is portrayed.

Prepared by: Rod Wilson, Design Manager II
Division: Engineering and Operations Standards

Phone: 465-2951
Date: February 16, 1988

Approved by Commissioner: 
Agency: Department of Transportation and Public Facilities

Date: 2/17/88

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Fiscal Analysis for HB 310

5/16/87

Prepared by DOT&PF

2/16/88

page 2 of 2

The department recommends that paragraph (f) be reworded as follows: "...until the contractor provides a sworn statement that the subcontractors of the contractor have been paid for the subcontractors' work under the contract and that work performed by the contractor under the contract has been ~~inspected and approved for compliance~~ completed in accordance with the contract."

The rationale for this change is that in nearly every instance the responsibility for inspection and approval lies with the Contracting Agency and not with the contractor. We believe it is in the best interest of the state that the sworn statement include acknowledgement that the work for which payment is requested is in conformity with the contract.

REPRESENTATIVE
BEN GRUSSENDORF

P. O. Box 928
SITKA, ALASKA 99835
(907) 747-8458

RULES COMMITTEE
LEGISLATIVE COUNCIL

DISTRICT 3
ELFIN COVE
PELICAN
PORT ALEXANDER
SITKA
TENAKEE

Alaska State Legislature



House of Representatives
SPEAKER OF THE HOUSE

WHILE IN JUNEAU
P.O. Box V
JUNEAU, ALASKA 99811
(907) 465-3824
(907) 465-3720

MEMORANDUM

To: Rep. Dave Donley
Chairman
House Labor & Commerce Committee

From: Rep. Ben Grussendorf
Speaker of the House

Date: February 17, 1988

Subject: House Bill 310

The purpose of House Bill 310 is to make it easier for subcontractors to collect money owed them for work on public construction projects. A number of subcontractors around the state have had great difficulty in this area, either receiving payments in an untimely manner or having payments wrongfully withheld. House Bill 310 would simply require that, prior to the receipt of a second or subsequent progress payment on a public construction project, the prime contractor submit a sworn statement that all subcontractors on the project have been paid what was due them from the previous progress payment.

Although House Bill 310 in its present form does take a step toward solving the problem, I believe the bill can be strengthened. Attached to this memorandum is a proposed substitute for House Bill 310 which I hope will be given consideration for adoption by the Labor & Commerce Committee. The proposed substitute does basically three things:

1. Section 1 amends the "Little Miller Act", the law which allows those who have contributed labor and materials to a public construction project and who have not been paid to sue against the payment bond posted by the prime contractor. The amendment would make clear that any person who furnishes such labor or materials may sue against the bond. All that is required is that the person have a direct contractual relationship with any subcontractor on the project.

2. Sections 2, 3 and 4 amend certain parts of the "Miscellaneous Provisions" section of Title 36 (Public Contracts). These amendments relate to sworn statements which must be furnished before prime contractors may receive progress payments on a public construction project, and are more particularly described in the first paragraph of this memorandum. Sections 2, 3 and 4 are basically the same as sections 1, 2 and 3 of HB 310 as introduced.

3. Section 5 requires that any subcontractor on a public construction or public works project give written notice to the prime contractor that the subcontractor has been so engaged. This requirement will make the prime contractor aware of any potential "Little Miller Act" claimants and should help the prime contractor comply with the requirement that he submit sworn statements of payment to subcontractors prior to the receipt of the prime contractor's second or subsequent progress payment.

One of the reasons I introduced House Bill 310 was to put the subject of payments to subcontractors "on the table" for discussion and debate. I am not claiming that the bill or its proposed substitute are the perfect solution, and I expect amendments to be proposed as this bill makes its way through the committee. I will not oppose such amendments if they serve the main purposes of the legislation: the prompt payment of subcontractors for work performed on public construction projects.

HOUSE COMMITTEE REPORT

(7)

Date referred: 5/12/87

FURTHER REFERRALS: Judiciary
Finance

DATE: 3/8/88

The Labor & Commerce Committee has considered HB 310

"An Act relating to payment under public construction contracts."

RECOMMENDS:

- replace with CSHB 310 (L+C) [] the same title
- [] attached amendment(s) [X] a new title
- [X] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: [] _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- [] fiscal impact [] same as previous fiscal note published _____
- [] zero fiscal note [] same as previous zero fiscal note published _____
- [X] zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Donna Duley

Ellis

Davidson

Al C. Smith

Mike Johnson

W. Furnace now Bill need work

Donna Duley W.D.R.S.

Donna Duley
Chairman's signature

5-1199B
Bannister
2/3/88

Original sponsor: Grussendorf

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 310 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to public construction and public
7 works contracts."

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

9 * Section 1. AS 36.25.020(b) is amended to read:

10 (b) However, a person having direct contractual relationships
11 with a subcontractor but no contractual relationship express or im-
12 plied with the contractor furnishing the payment bond has a right of
13 action on the payment bond upon giving written notice to the contrac-
14 tor within 90 days from the last date on which the person performed
15 labor or furnished material for which the claim is made. The notice
16 must state with substantial accuracy the amount claimed and the name
17 of the person to whom the material was furnished or for whom the labor
18 was performed. The notice shall be served by mailing it by registered
19 mail, postage prepaid, in an envelope addressed to the contractor at a
20 [ANY] place where the contractor maintains an office or conducts
21 business, or the contractor's residence, or in a [ANY] manner in which
22 a peace officer is authorized to serve summons. In this subsection,
23 "subcontractor" includes a subcontractor of a subcontractor.

24 * Sec. 2. AS 36.90.010(a) is amended to read:

25 (a) The state shall initiate procedures to pay the contractor
26 under a public construction or public works [WORK] contract within 15
27 days after the contractor submits to the state a bill for materials
28 provided or services performed, [AND] a sworn statement that all
29 employees employed on the project by the contractor and all

1 subcontractors have been paid not less than the established prevailing
2 rate of pay as determined and published by the Department of Labor,
3 and, if applicable, the sworn statement required under (f) of this
4 section.

5 * Sec. 3. AS 36.90.010(b) is amended to read:

6 (b) If the state fails to make a payment due the contractor
7 under this section within 30 days after receiving a contractor's
8 billing and after satisfaction, if applicable, of (f) of this section,
9 the state shall pay interest to the contractor under AS 45.45.010(a)
10 on the amount due.

11 * Sec. 4. AS 36.90.010 is amended by adding a new subsection to read:

12 (f) The state or a political subdivision of the state may not
13 make a second or subsequent progress payment under a construction con-
14 tract until the contractor provides a sworn statement that all of the
15 subcontractors on the project have been paid for the services, mate-
16 rials, and equipment furnished by the subcontractors for the project
17 and that the work performed by the contractor under the contract has
18 been inspected and approved for compliance with the contract. In this
19 subsection, "subcontractor" means a person who has an express or
20 implied direct contractual relationship with the contractor or with a
21 subcontractor on the project to furnish services, materials, or
22 equipment for the project, but does not include an employee.

23 * Sec. 5. AS 36.90 is amended by adding a new section to read:

24 Sec. 36.90.020. NOTICE BY SUBCONTRACTOR. A person who contracts
25 other than as an employee to furnish services, materials, or equipment
26 for a public construction or public works project shall give the prime
27 contractor on the project written notice of the contract within 10
28 days of entering into the contract. In this section, "prime contrac-
29 tor" means the person who has contracted with the state to perform the

1 project.

2 * Sec. 6. This Act applies to contracts that are entered into on or
3 after the effective date of this Act.
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5-1199L (✓)
Bannister
2/26/88

Original sponsor: Grussendorf

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 310 ()
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to public construction and public
7 works contracts."

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

9 * Section 1. AS 36.25.020(b) is amended to read:

10 (b) However, a person having direct contractual relationships
11 with a subcontractor but no contractual relationship express or im-
12 plied with the contractor furnishing the payment bond has a right of
13 action on the payment bond upon giving written notice to the contrac-
14 tor within 90 days from the last date on which the person performed
15 labor or furnished material for which the claim is made. The notice
16 must state with substantial accuracy the amount claimed and the name
17 of the person to whom the material was furnished or for whom the labor
18 was performed. The notice shall be served by mailing it by registered
19 mail, postage prepaid, in an envelope addressed to the contractor at a
20 [ANY] place where the contractor maintains an office or conducts
21 business, or the contractor's residence, or in a [ANY] manner in which
22 a peace officer is authorized to serve summons. In this subsection,
23 "subcontractor" includes a subcontractor of another subcontractor,
24 whether or not the other subcontractor has a direct contractual rela-
25 tionship with the contractor.

26 * Sec. 2. AS 36.90 is amended by adding a new section to read:

27 Sec. 36.90.020. NOTICE BY SUBCONTRACTOR. A person who contracts
28 other than as an employee to furnish services, materials, or equipment
29 for a public construction or public works project shall give the prime

1 contractor on the project written notice of the contract within 10
 2 days of entering into the contract. In this section, "prime contrac-
 3 tor" means the person who has contracted with the state to perform the
 4 project.

5 * Sec. 3. This Act applies to contracts that are entered into on or
 6 after the effective date of this Act.
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HB

313

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House L3C

Feb. 4, 1988

5-1192B

Ford

2/2/88

Original sponsor: Labor and Commerce Committee

Rate Filing vs Administration

1 IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 313 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to insurance rate filings."

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

8 * Section 1. AS 21.39.040(d) is amended to read:

9 (d) Subject to the exception specified in (e) of this section,
10 each filing shall be on file for a waiting period of 15 days before it
11 becomes effective. This [, WHICH] period may be extended by the
12 director for an additional period not to exceed 15 days if the direc-
13 tor gives written notice within the waiting period to the insurer or
14 rating organization that [WHICH] made the filing stating that addi-
15 tional time for the consideration of the filing is required. Upon
16 written application by the insurer or rating organization, the direc-
17 tor may authorize a filing that the director has reviewed to become
18 effective before the expiration of the waiting period. A filing under
19 this subsection that does not increase rates by more than five percent
20 shall be considered to meet the requirements of this chapter unless
21 disapproved by the director within the waiting period. A filing under
22 this subsection that increases rates by more than five percent may not
23 be considered to meet the requirements of this chapter unless

24 (1) within the waiting period, the director approves the
25 rate increase in writing and specifies the reasons the rate increase
26 meets the requirements of AS 21.39.030;

27 *check reference* (2) the rate filing information specified under (a)(1) -
28 (4) of this section has been filed with the director;

29 (3) the director has examined the insurer within the past

1 three years under AS 21.09.120; and

2 (4) if the rate filing is for workers' compensation insur-
3 ance, the insurer has provided the director the following information
4 concerning workers' compensation claims for the previous calendar
5 year:

6 (A) the number and dollar amount of claims filed;

7 (B) the number of claims controverted and reasons for
8 the controversion;

9 (C) ^{a separate accounting of} the amount paid in medical, ^{rehabilitation} rehabilitation, legal,
10 and administrative expenses.

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16 *Wait until the director's office is*
17 *written in by the new bill.*
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23 *21.39.130*
24 *was administrative*
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5-1192L

Ford
2/18/88

Original sponsor: Labor and Commerce
Committee

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 313 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to insurance rate filings."

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

8 * Section 1. AS 21.39.040(d) is amended to read:

9 (d) Subject to the exception specified in (e) of this section,
10 each filing shall be on file for a waiting period of 15 days before it
11 becomes effective. This [, WHICH] period may be extended by the
12 director for an additional period not to exceed 15 days if the direc-
13 tor gives written notice within the waiting period to the insurer or
14 rating organization that [WHICH] made the filing stating that addi-
15 tional time for the consideration of the filing is required. Upon
16 written application by the insurer or rating organization, the direc-
17 tor may, authorize a filing that the director has reviewed to become
18 effective before the expiration of the waiting period. A filing under
19 this subsection that does not increase rates by more than five percent
20 shall be considered to meet the requirements of this chapter unless
21 disapproved by the director within the waiting period. A filing by an
22 insurer or a rating organization under this subsection that increases
23 rates by more than five percent may not be considered to meet the rate
24 filing requirements of this chapter unless

25 (1) within the waiting period, the director approves the
26 rate increase in writing and specifies the reasons the rate increase
27 meets the requirements of AS 21.39.030;

28 (2) the insurer has filed the rate information specified
29 under (a)(1) - (4) of this section and the annual statement required

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by AS 21.09.200 with the director; and

(3) if the rate filing is for workers' compensation insurance, the insurer has provided the director the following information concerning workers' compensation claims for the previous calendar year:

(A) the number and dollar amount of claims filed;

(B) the number and dollar amount of premiums collected;

(C) the number of claims controverted and reasons for the controversion;

(D) the amount paid in the categories of medical, rehabilitation, legal, and administrative expenses.

* Sec. 2. AS 21.39.040 is amended by adding a new subsection to read:

(j) Notwithstanding (d) of this section, the director may approve a filing by a rating organization for a member or subscriber of the rating organization that is in compliance with (d)(2) and (3) of this section.

HB

3440

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House L³C

January 21, 1988

HOUSE COMMITTEE REPORT

(7)

Date referred: 1/11/88

FURTHER REFERRALS: Judiciary

DATE: 1/21/88

The Labor & Commerce Committee has considered HB 340

"An Act granting immunity from civil liability for providing volunteer emergency services."

RECOMMENDS:

- replace with CS 413340 (L+C) the same title
- 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):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

[Handwritten signatures: Bob LeBeau, Bill Korman, [unclear], Cliff Davidson, J. Ellis, Dick Douley, Curt Merritt]

[Handwritten signature: Dick Douley]
Chairman's signature

Original sponsors: Davis, Koponen,
Ulmer, et al.

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 340 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act granting immunity from civil liability for
7 providing volunteer emergency services."

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

9 * Section 1. AS 09.65.090 is amended by adding a new subsection
10 read:

11 (c) An organization and its members are not liable for civil
12 damages as a result of an act or omission in providing first aid
13 search, rescue, or other emergency services, regardless of whether the
14 organization or members are under a preexisting duty to render assistance,
15 if

16 (1) the organization exists for the purpose of providing
17 the service rendered; and

18 (2) the member provided the service while acting as
19 volunteer member of the organization; in this paragraph, "volunteer"
20 means a person who receives financial consideration of not more than
21 \$10 a day and a total of not more than \$500 a year, not including
22 reimbursement for expenses actually incurred, for providing emergency
23 services.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act granting immunity
from civil liability for...
Sponsor: Davis et al.
Requestor: _____

Agency Affected: Health & Social Services
BRU: State Health Services
Components: EMS Certification and
Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The enactment of HB 340 would have no direct fiscal impact on the Department of Health and Social Services.

Prepared by: Elizabeth Ward, Director *Elizabeth Ward* Phone: 465-3090
Division: Public Health Date: 1-20-88

Approved by Commissioner: *Maria M. Mearns* Date: 1-20-88
Agency: Department of Health & Social Services

Distribution (by preparer):

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

BY DAVIS, KOPONEN, ULMER
GRUSSENDORF, PETTYJOHN
GOLL, HUDSON AND LARSON

1 IN THE HOUSE

2 HOUSE BILL NO. 340

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act granting immunity from civil liability for
7 providing volunteer emergency services."

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

9 * Section 1. AS 09.65.090 is amended by adding a new subsection to
10 read:

11 (c) An organization and its members are not liable for civil
12 damages as a result of an act or omission in providing first aid,
13 search, rescue, or other emergency services, regardless of whether the
14 organization or members are under a preexisting duty to render assis-
15 tance, if

16 (1) the organization exists for the purpose of providing
17 the service rendered; and

18 (2) the member provided the service while acting as a
19 volunteer member of the organization.
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Alaska State Legislature

Representative Mike Davis

P.O. Box V
Juneau, Alaska 99811
(907) 465-4930/4941

Interim Office:
P.O. Box 81435
Fairbanks, Alaska 99708

TO: Members of the House Labor & Commerce Committee
FROM: Rep. Mike Davis
DATE: January 21, 1988
RE: Good Samaritan Legislation

HB 340 will be before you in the House Labor and Commerce Committee this afternoon. The bill amends the Good Samaritan Act to protect members of volunteer first aid organizations from liability.

Ordinary citizens who try to help in emergency situations are protected from liability by the Good Samaritan Act, AS 09.65.090. Paramedics and EMTs who are certified by the state are covered in liability questions by AS 18.08.086. However, members of volunteer rescue organizations such as the National Ski Patrol, Civil Air Patrol, and mountain rescue groups may not have any statutory protection.

First aid and rescue volunteers are vulnerable to litigation because they have an obligation to help people while serving in their organizations. The Alaska Supreme Court has ruled that the Good Samaritan Act does not protect those who have a "pre-existing obligation to assist individuals in danger".

HB 340 would protect emergency services volunteers and their organizations from liability for their good faith attempts to aid those in danger. However, they would still be liable for damages as a result of "gross negligence, recklessness, or intentional misconduct" as stated in subsection (b) of the existing Good Samaritan Act.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
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LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 11, 1988

SUBJECT: Immunity from civil liability for volunteer
emergency services (Work Order No. 5-1495)

TO: Representative Mike Davis

FROM: Edward H. Hein *EHA*
Legislative Counsel

You have asked whether volunteer ski patrol members are in fact open to liability for negligence during rescue operations and whether, therefore, your legislation (Work Order No. 5-1495A) is needed.

Your bill amends AS 09.60.090, Alaska's "Good Samaritan" law. This law provides immunity from civil liability for negligent acts or omissions by persons rendering emergency aid to people in immediate danger of serious harm or death. The purpose of the law is to encourage people to voluntarily come to the aid of persons in need of rescue without having to fear potential civil liability for negligence. Lee v. State, 490 P.2d 1206, 1209 (Alaska 1971).

The Alaska Supreme Court in Lee ruled that the immunity under this statute does not extend to persons, such as state troopers, who are under a "pre-existing duty to rescue." It is an open question whether ski patrollers have a pre-existing duty to rescue. The Alaska courts have not decided that question. It can be argued that ski patrollers are under a pre-existing duty to rescue and are, therefore, not immune from civil liability under Alaska's Good Samaritan Act. In order that ski patrollers and other similar rescue group volunteers are assured of immunity, it would be prudent to have the provisions of your bill or similar language in the statutes.

Position Paper

HB 340

For an Act entitled: "An Act granting immunity from civil liability for providing volunteer emergency services."

This Act amends AS 09.65.090 (civil liability for emergency aid) to expand the coverage to a person who provides emergency services, e.g., first aid and search and rescue, while acting as a volunteer for an organization that exists for the purpose of providing the service rendered, regardless of whether the organization or members are under a preexisting duty to render assistance. Currently, AS 09.65.090 only provides immunity from liability to persons who do not have a preexisting duty to act. Many individuals and organizations providing emergency services, such as volunteer ski patrollers and search and rescue teams, do not currently have protection from liability afforded by statute.

Position

The Department of Health and Social Services supports this bill because it increases immunity from liability for volunteer emergency service workers, many of whom are under a preexisting duty to act and, consequently, are not covered by AS 09.65.090. It is likely that passage of this legislation would increase the number of individuals willing to provide emergency services and would decrease the rate of attrition among emergency service volunteers.

Recommended by:

Elizabeth Ward
Elizabeth Ward, M.N.
Director
Division of Public Health

Date:

January 20, 1988

Approved by:

Myra M. Munson
Myra M. Munson
Commissioner
Department of Health and
Social Services

Date:

Jan 20, 1988

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act granting immunity
from civil liability for...
Sponsor: Davis et al.
Requestor: _____

Agency Affected: Health & Social Services
BRU: State Health Services
Components: FMS Certification and
Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The enactment of HB 340 would have no direct fiscal impact on the Department of Health and Social Services.

Prepared by: Elizabeth Ward, Director Phone: 465-3090
Division: Public Health Date: 1-20-88

Approved by Commissioner: Maria M. Munson Date: 1-20-88
Agency: Department of Health & Social Services

Distribution (by preparer):

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

BILL NO: HB 340

DATE: 1/20/88

TITLE: An Act Granting Immunity
From Civil Liability For
Providing Volunteer
Emergency Services.

CONTACT: Capt. McConnaughey

DEPARTMENT OF
PUBLIC SAFETY

Search and rescue in Alaska is the responsibility of the Alaska State Troopers, U.S. Air Force, and U.S. Coast Guard. All three agencies use volunteers to aid in the search activities. Probably 70% of all Trooper searches are conducted by volunteers acting under the direction of the Troopers. The organized volunteers are trained, equipped, and ready on a moment's notice. All search and rescue agencies depend on the volunteers. Without volunteers our job would be more difficult and time consuming. This bill provides the volunteers with a degree of civil protection if someone is inadvertently injured during the rescue.

Arthur English / jc

Arthur English, Commissioner

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