

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 86/2

5316 SJUD SB 273 - SB 276 888

GAMBLING

(Continued from page 1)

plan that's been in place since 1952. McLaughlin said revenues from gambling pay half the school costs there, and support a retirement home. Money has been used to restore and preserve historic sites there.

McLaughlin and John Reeves, owner of the historic Gold Dredge No. 8 in Fox, are among organizers of the National Historic Gambling Coalition, a group that intends to raise money and lobby for a gambling bill.

Joe Paskvan, whose family has operated Tommy's Elbow Room downtown for decades, said he opposed gambling only at Alaskaland. "I think the only establishment still in existence (in the city) that had gambling 40 years ago is Tommy's," he said, noting the bar had slots and blackjack. Alaskaland should be kept a family park, he added.

Bruce Stephenson, an ardent advocate of preserving the Riverboat Nenana at Alaskaland, said gambling was prohibited on steamers and it isn't an historic use. He opposes suggestions that the boat be the intended site for gambling.

Bill Whaley, an Alaskaland Commission member, offered the most pointed views. "We had gambling during the years these people are talking about. We also had slaves. We also had child labor. Just because it's historic, do we have to have it?" Whaley asked.

Whaley said gambling will mean drinking. "Declare a free zone. Let it go, let it be frontier. That is historic gambling. But don't bring it into my community," he said. Whaley also said Dawson City may use gambling revenue to support the elderly and schools, "but they do it off someone else's misery."

The meeting ended before Alaskaland Superintendent Terry Leberman could speak. Leberman in the past publicly endorsed gambling at Alaskaland, both as a means of attracting park visitors and raising revenues.

Reeves supported gambling on the riverboat. "It seems like such an ideal place," he said. There should be a cover charge, which would add to city revenues, and Reeves said what's envisioned is "nickel-dime gambling. This isn't big time like you see in Las Vegas."

DUM 1/15/67

CORRECTION

Sen. Bettye Fahrenkamp and not Rep. Mark Boyer is poised to introduce a new bill to allow gambling in historic districts. An article on Page 1 Wednesday quoted Mayor Bill Walley as saying Boyer is ready to introduce a bill. Walley meant to refer to Fahrenkamp aide Tom Moyer. Fahrenkamp's staff is currently drafting a bill and has invited city council input.

The Daily News-Miner's policy is to publish corrections on the front page if the error being corrected appeared there. Other corrections appear on Page 3.

APR 08 1988

★ Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 1267

Fairbanks, Alaska 99707

907/452-4761

Dear Mitch

March 28, 1988

Mitch Abood, Chairman
Senate State Affairs Committee
P.O. Box V (MS3100)
Juneau, Alaska 99811

MAR 31 1988

Dear Mitch:

Enclosed is a copy of Resolution No. 88-053 adopted by the Fairbanks North Star Borough Assembly on March 24, 1988.

The Fairbanks North Star Borough Assembly supports this bill only if the state exercises strict control and regulations over all entities involved with gambling enterprises and only if the local municipalities are required to conduct an election to determine whether or not voters in the individual municipalities want local gambling.

Sincerely,

Howard Otis

Howard "Buzz" Otis
Presiding Officer

BY: VALERIE THERRIEN
INTRODUCED: 3/24/88
ADOPTED MAR 24 1988

RESOLUTION NO. 88-053

A RESOLUTION SUPPORTING SENATE BILL 273
AUTHORIZING GAMBLING ENTERPRISES

WHEREAS, gambling enterprises licensed by the state or by municipalities offer a substantial contribution to the welfare and prosperity of the state and the opportunity to offset declining revenue; and

WHEREAS, in order for limited gambling to be successful and honest, strict regulation and control of all persons, locations, practices and activities related to operation of licensed gambling enterprise must be enacted; and

WHEREAS, all premises where gambling is conducted must be licensed by either the state or a municipality; and

WHEREAS, to further local control over the conduct of gambling, residents of each municipality must vote to approve gambling before it can occur in the municipality.

NOW, THEREFORE, BE IT RESOLVED that the Fairbanks North Star Borough Assembly supports the passage of Senate

Bill 373, An Act Authorizing Gambling Enterprises And
Providing For An Effective Date.

BE IT FURTHER RESOLVED that the Fairbanks North
Star Borough Assembly supports this bill only if the state
exercises strict control and regulations over all entities
involved with gambling enterprises and only if the local
municipalities are required to conduct an election to
determine whether or not voters in the individual
municipalities want local gambling.

BE IT FURTHER RESOLVED that copies of this
resolution shall be sent to the Honorable Steve Cowper,
Governor, State of Alaska; the Honorable Mitch Abood,
Chairman, Senate State Affairs Committee; the Honorable
Tim Kelly, Chairman, Senate Labor and Commerce Committee;
the Honorable Johnne Sinkley and the Honorable Rick Halford,
Co-chairmen, Senate Finance Committee.

PASSED AND APPROVED THIS _____ DAY OF _____, 1988.

Presiding Officer

ATTEST:

Clerk of the Assembly



*Great American
Cruise Lines Ltd.*

At Point Of Mailing

10695 Salisbury Drive,
Surrey, B.C.
Canada.
V3R 6Y9

23rd March 1988

The Office of Senator Bettye Fahrenkamp,
Alaska State Legislature,
Pouch V,
Juneau, Alaska
99811

Attn: T.Moyer Esq.
Executive Assistant

Dear Sir.

Re: Alaska State Gambling Legislation

Further to our telephone conversations over the period commencing on the 4th of January this year until the present, I should like to confirm the the interests of Great American Cruise Lines Ltd in developing a destination ship/hotel at Skagway Alaska, together with mini cruise ship operations based on the hotel.

For the purpose of the permanently moored ship/hotel, Great American have purchased the Canadian Pacific cruise vessel, Princess Patricia, and are actively seeking suitable mini cruise vessels which will transport our guests on daily or longer cruises.

The development of Great Americans project in Skagway will acquire for the city a significant additional employment base and tax revenue. We estimate that the hotel will employ some seventy five people during the operating season, while maintaining approximately five permanent jobs. However the nature of the tourist industry in S.E.Alaska is by fact a very seasonal one with more than a little risk to the investor, and the opportunity to offset this risk by being able to offer to the general public year round entertainment is likely to attract a continuing clientele and support year round operation, increase the permanent employment opportunities in the town, as well as increase the revenues to the the State of Alaska and the municipality of Skagway.

Great American would like to be on record as actively supporting Senator Fahrenkamp's bill in the state legislature in "An act authorizing certain municipalities to conduct limited historic gambling enterprises" We believe this bill will provide the additional incentive for our company to commit to the capital outlay, which in our case will exceed eight million dollars, attract to the state additional year round employment as well as generate new state and municipal revenues.

We appreciate the opportunity of adding our support to the passage of this worth while legislation and would appreciate being kept abreast of its progress through the legislature.

Yours faithfully.

GREAT AMERICAN CRUISE LINES LTD.

A handwritten signature in dark ink, appearing to read "Robert C. E. Kitching". The signature is somewhat stylized and scribbled.

Captain Robert C.E. Kitching
Senior Vice President

PUBLIC OPINION MESSAGE

MAR 28 1986

DEAR: SENATOR FAHRENKAMP

NAME: RICHARD GRAVENSTEIN
TITLE:
ADDRESS: 1679 KIVALINA
CITY: FAIRBANKS
PHONE: 474-0672
BILL NO: SB 273
SUBJECT: GAMBLING
MESSAGE: I AM ALL IN FAVOR OF LEGALIZED GAMBLING IN FAIRBANKS.
EOM/MJO

ZIP: 99701

POHID: 07090031
DATE: 03/25/88
TIME: 09:00:31
LIONAME: FAIRBANKS LIO

COPIES: REPRESENTATIVES SENATORS

JOYER
DAVIS
FRANK
KOPONEN
MILLER

COGHILL
FANNING
ABOOD
HENSLEY
JOSEPHSON
UEHLING

PUBLIC OPINION MESSAGE

DEAR: SENATOR FAHRENKAMP

NAME: STEVE FERREE
TITLE:
ADDRESS: 412 BARANOF
CITY: FAIRBANKS
PHONE: 452-6497
BILL NO: SB 273
SUBJECT: GAMBLING
MESSAGE: I WOULD LIKE TO EXPRESS MY 100% SUPPORT FOR THIS BILL.
EOM/MJO

ZIP: 99701

POMID: 07083949
DATE: 03/25/88
TIME: 08:39:49
LIONAME: FAIRBANKS LIO

COPIES: REPRESENTATIVES SENATORS

BOYER
DAVIS
FRANK
KOPONEN
MILLER

COGHILL
FANNING

PUBLIC OPINION MESSAGE

DEAR: SENATOR FAHRENKAMP

NAME: FRED MARTINSON
TITLE:
ADDRESS: 1536 SCENIC LOOP
CITY: FAIRBANKS ZIP: 99709
PHONE: 479-2594
BILL NO: SB 273
SUBJECT: GAMBLING
MESSAGE: I AM IN FAVOR OF THIS BILL.

POMID: 07091908
DATE: 03/25/38
TIME: 09:19:08
LIONAME: FAIRBANKS LIO

PUBLIC OPINION MESSAGE

MAR 27 1988

DEAR: SENATOR FAHRENKAMP

NAME: LAMONT CRAY
TITLE:
ADDRESS: 1103 JOHN KALINAS ROAD
CITY: FAIRBANKS ZIP: 99712
PHONE: 489-6821
BILL NO: SB 273
SUBJECT: GAMBLING
MESSAGE: I STRONGLY SUPPORT THIS BILL.

POHID: 07090141
DATE: 03/25/88
TIME: 09:01:41
LIONAME: FAIRBANKS LIO

PUBLIC OPINION MESSAGE

988

DEAR: SENATOR FAHRENKAMP

NAME: PAMELA AND LARRY MCLAUGHLIN
TITLE: OLD F.E. COMPANY, NATIONAL HIS. DISTRICT
ADDRESS: P.O. BOX 2537
CITY: FAIRBANKS ZIP: 99707
PHONE: 389-2414
BILL NO: SB 273
SUBJECT: GAMBLING

MESSAGE: IT IS IMPORTANT TO BUILD A GOOD FOUNDATION IN WHICH WE CAN SUPPORT AND CONTINUE TO EXPAND TOURISM FINANCIALLY. HISTORIC RESTORATION IS IMPERATIVE IN ALASKA, AND WITH NO OTHER SOURCE OF REVENUE NOW OR IN THE NEAR FUTURE, WE MUST ACT UPON THIS BILL WITH THE UTMOST EXPEDIENCY. THIS BILL HAS BEEN EXAMINED AND REEXAMINED AND INTRODUCED FOR REVIEW SINCE 1984, AND HAS THE SUPPORT OF THE MAJORITY. PLEASE SUPPORT ITS' PASSAGE AS WE DO. THANK YOU.

POMID: 07162652
DATE: 04/01/88
TIME: 16:26:52
LOCATION: FAIRBANKS LIO

COPIES: SENATORS

ELIASON
KELLY
SZYMANSKI
UEHLING

State Lotteries Are a Bad Bet — Casinos Pay Four Times as Much

State lotteries are one of the worst bets around, says a gambling expert.

"They offer the worst chances of winning and the worst payoffs among popular forms of gambling," declared Len Miller, editor of Gambling Times magazine.

Incredibly, while a roulette wheel pays out 94 percent of the money that it takes in, the lottery in some instances pays out only 25 percent, Miller revealed.

"People who buy a lottery ticket for \$1 and think that they have any kind of real chance of winning any money — especially the \$20 million jackpot — are fooling themselves!

"What's really unfair is that state lotteries don't immediately pay off the big winners.

"If you win \$1 million in a state lottery, you don't get the \$1 million right away.

"You get \$50,000 a year for 20

By STEVE COZ

years or some similar long-term payout like that.

"When you win \$1 million, the state goes to a savings and loan, deposits \$500,000 and says, 'Pay this person \$1 million over the next 20 years.'

"Then the state pockets the other \$500,000.

"They're using \$500,000 to pay off \$1 million. I don't think that's fair. Why shouldn't the winner be able to get the money, invest it and get the interest?"

Twenty-five states and the District of Columbia now have lotteries, according to lottery authorities — and Americans will spend an incredible \$11 billion buying lottery tickets in 1988.

Playing the lottery can be fun and relaxing, Miller said — as long as

you realize you don't have much of a chance of winning. This is my advice — if you bet just \$1 or \$5 a week, the lottery can be fun.

"But if it comes down to where you're betting your lunch money or the money for the baby's milk or whatever — forget it!"

SENATE BILL NO. 284
AN ACT WHICH WOULD AUTHORIZE
LIMITED HISTORIC GAMBLING IN HISTORIC DISTRICTS

DRAFT (Possible mail
out to general public)

What is your opinion?

Please take a moment and fill out this
questionnaire.

Background information:

1. The Alaska legislature will soon consider authorizing limited historic gambling in designated historic districts and parks (ex: Old F.E. Gold Camp, Fox Dredge);
2. A majority of voters in the municipality must approve;
3. A licence to conduct gambling would be required;
4. A mamimum amount of a bet would be established;
5. Gambling would be restricted to persons over 18 years of age.

Survey questions: Please check one answer for items A through D and make any comments on the following lines.

A. Gambling would be a good source of income for municipalities and private businesses affected by this bill.

Agree _____ Disagree _____

Comments: _____

B. Tourism would be directly promoted by the establishment of Limited Historic Gambling.

Agree _____ Disagree _____

Comments: _____

C. Local residents would be more inclined to frequent historic district establishments if gambling were offered.

Agree _____ Disagree _____

D. Competition between businesses which could offer gambling and those which could not would remain about the same because of other factors such as services, location, attractions, etc.

Agree _____ Disagree _____

Comments: _____

Mr. Stan Tyree
1910 Turner St.
Fairbanks Ak. 99701

March 24, 1988 .

Mr. Abood
Chairman of The Senate State Affairs
Legislative Affairs Office
Fairbanks Ak. 99701

The State Senate Sir:

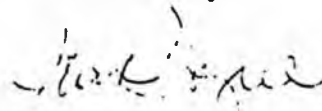
I am writing to voice my support for a bill that concerns historic gambling. Senate bill 273, prepared by Senator Fettey Fahrenkamp.

Sir if I were able, I would drench this letter in tears. Tears shed by friends and neighbours who have left this town in an attempt to find work in the lower forty eight. I would do this to convince you sir, that we as citizens of Fairbanks " The Golden Heart City " have hearts made of a much less durable substance than gold. Our hearts break, and our hearts bleed . I've seen men, proud men, for the first time in their lives knuckle under to hunger and swallow that pride in order to eat and feed their own. When you see a man going through the humiliation of asking for assistance to feed his family, look in his eyes. He won't return your glance cause he was brought up in a society that taught him " only bums don't work " but if you look despite that, nine out of ten times this is what your going to see, shame, shame that he has to sit in some office reduced to a number, telling some lady he's never met how it's not really his fault that he can't find work. Trying to retain what little pride he brought in with him. Also there's a hollow look, a look that says " I never thought this could happen to me, and it scares the hell out of me "

In the city of Fairbanks you, with no trouble at all will find a great many people, quick to explain the evil nature of gambling, but I tell you the hunger and hardship of a depressed economy can bring a community to it's knees, and make a good man turn bad one thousand times faster than any hand of cards on Gods earth.

In closing I would like to say one more thing. I didnt just fall off a turnip truck, I realize this bill isn't the answer to all our problems but it's a step in the direction of recovery. And if we don't take it now what will make us take it.

Sincerely

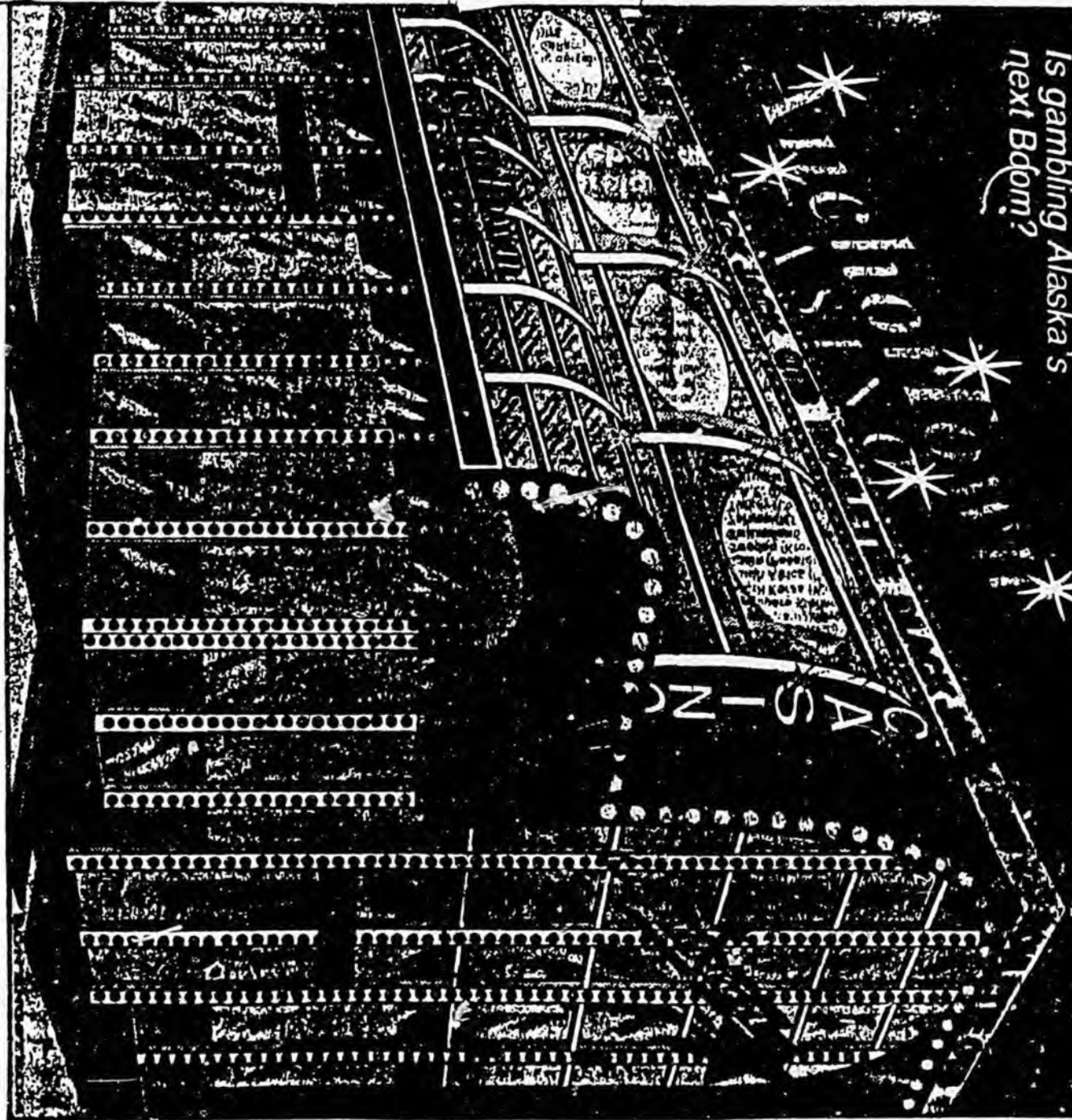


Stan Tyree

THE ALASKANS

THE BET ON BETTING

*Is gambling Alaska's
next Boom?*



THE NEW GOLD RUSH

Despite legal limits, gambling booms in Alaska, and its advocates want

By GEORGE BRYSON

Political consultant and sometimes professional fight-promoter Bill McConkey was not happy. It was that preacher again. This time Anchorage Baptist minister Jerry Prevo was rallying his flock against an effort to legalize casino gambling in Alaska — a movement McConkey avidly supports.

Prevo had debated him in public on the subject just recently. And again the preacher had hammered away at the moral consequences to the state.

Moral consequences, McConkey wondered. What moral consequences? What are the moral consequences of all the gambling that already exists in the state? The daily bingo games, the lotteries, the Monte Carlo nights, the dog racing, the "social" poker games, the ice classics, the rain classics, the fish derbies, the office football pools, the barroom instant-cash "rippies" — Wasn't that gambling?

"I mean, gambling is everywhere," McConkey said, sweeping his long boxer's arm through the air of his Eagle River office. "Every Moose Hall, every Elks' Hall, every Lions' Club, all of the bars, the bowling alleys, the churches, the PTA — every institution that is sacred and hallowed to us is running some kind of gambling operation."

"Hey, when I was in Juneau you could get in a poker game any night at the Baranof Hotel with our legislators and our lobbyists and members of the administration. Gambling is rampant in this state."

Alaska revenue officers could only agree. Their latest figures show the state in the midst of a gambling boom unparalleled in its history. How could that be, in a state where gambling isn't officially allowed?

As most charity leaders know, Alaska law has long permitted non-profit organizations to raise money through certain approved forms of gambling. Ten years ago, bingo games, club raffles, lotteries and ice classics raised about \$9 million in gross revenues for Alaska non-profits. Five years ago, with the increase in professional bingo operators to assist the groups, revenues had grown to \$23 million. And last year — fueled by a popular new form of cookie-cutter gambling known as pull-tabs or "rippies" — charitable gambling revenues soared upwards of \$70 million.

Rep. Mark Boyer, D-Fairbanks, places the figure closer to \$100 million — more, he says, than has



Promoter Bill McConkey



Preacher Jerry Prevo

ever been generated by the placer gold-mining industry in Alaska.

The proceeds are divvied up by an increasing number of non-profit groups — from the Alaska Repertory Theatre to the Camp Fire Girls to the Iditarod Trail Committee — that see charitable gaming as a precious resource in these recession-ridden times. Alaska awarded gambling permits to 788 such groups in 1965. Today there are nearly a thousand.

But expect to hear even more advertisements for charitable gambling in the future if a bill now before the legislature — one that more than doubles the amount of gaming any one group can conduct — is passed as expected this session. Or if the hottest new gambit in Alaska gaming — statewide charitable lotteries — catches fire like the industry now predicts.

Last November a tiny American Legion post in Glennallen contracted a man in Fairbanks to sell \$300,000 worth of "Alotto" tickets all across the state. The operator promised to pay a grand prize of \$100,000 to the eventual lottery

winner, as well as about \$70,000 in "instant prizes" along the way. He would do this, he told the American Legion, for about \$55,000 — leaving a tidy \$75,000 profit for charity.

Despite the fact that no one in Alaska knew when the lottery would occur precisely (the operator simply promised to keep plugging away with his four-person crew until all the tickets were sold), and despite hardly any advertising, and despite "moonmen" problems in distribution, the effort appears to be a roaring success. By January, Alaskans who could find them were buying the little \$1 Alotto tickets at a rate of 8,000 a day — and the operator expected to surpass his 300,000-ticket quota well before the drawing, now set for Jan. 31.

Such willingness by Alaskans to bet their hard-earned dollars on "a chance" — and the millions of dollars that small-time gambling operations have raised in the process — hasn't gone unnoticed, either by the state or by private merchants.

There are at least five bills before the legislature now that would

extend gambling rights to private businessmen or the state government itself, while broadening the choices. Among them:

• A bill by Rep. Ron Larson, D-Palmer, allowing parimutuel wagering in Alaska, such as track-betting on horse races and dog-sled races.

• A bill by Rep. Mark Boyer, D-Fairbanks, establishing a state-run lottery along the lines of those that already exist in New York and California.

• A bill by Rep. Robin Taylor, R-Wrangell, allowing "historic gambling" in the communities of Nome, Skagway and Fairbanks, where it was once legal.

• A bill by Sen. Bettye Fahrenkamp, D-Fairbanks, allowing historic gambling anywhere in the state, while limiting its forms to card-playing, dice and wheel games.

• And a bill by Rep. Fritz Pettyjohn, R-Anchorage, permitting Nevada-styled casino gambling and horse-racing anywhere in the state where the local populace votes its approval.

Gambling everywhere. Moose Hall, Elks' Hall, Club, all the bowling churches every in sacred & us is running kind of operation.

Only the I have no choice this. Pettyjohn with McConkey small business Gambling Petfort to try to sure approve two process. signatures of loved voters I can for the II

McConkey, director, says 20,000 usual for, with also go. He predicts easily qualify Alaska votes what the Id touch. A rail showed that; showed. Fall to-Summit B Peninsula B crown. But in the legislature

"They don't the individual key explained read their of They don't we wing true-but — like I got servants of I gambling

"I mean, I you're talking can be better of and boxes. I see negative stand it The cocktail-party your character have." But the

RUSH

advocates want more



Anchorage Daily News/Chris ...

'Gambling is everywhere. Every Moose Hall, every Elks' Hall, every Lions' Club, all of the bars, the bowling alleys, the churches, the PTA — every institution that is sacred and hallowed to us is running some kind of gambling operation.'

— Bill McConkey

Only the latter is considered to have no chance at passage. Sensing this, Pettyjohn has joined forces with McConkey and several other small businessmen in the Legalized Gambling Petition Drive — an effort to try to get Pettyjohn's measure approved through the initiative process. The group needs the signatures of about 18,000 registered voters to qualify the proposition for the 1989 statewide ballot.

McConkey, the drive's executive director, says it has gathered about 20,000 unvalidated signatures so far, with about nine months still to go. He predicts the measure will easily qualify for the ballot — and Alaska voters then will approve what the legislature refused to touch. A rillbelt poll last summer showed that most Alaskans in Anchorage, Fairbanks, the Matanuska-Susitna Borough and the Kenai Peninsula Borough favor the proposition. But he isn't surprised that the legislature itself is reticent.

"They don't want the heat from the individual preachers," McConkey explained. "They don't want to read their names in the papers. They don't want to see some right-wing true-believer writing a letter — like I get — calling them the servants of Satan for promoting gambling."

"I mean, these are my clients you're talking about. I know politicians better than I know gamblers and boxers. They don't want to see one negative letter. They can't stand it. The politician will say, in cocktail-party talk, 'You can count your character by the enemies you have.' But they don't mean it. They

ing rights to private or the state govern- while broadening the g them:

Rep. Ron Larson, wing parmutuel wa- ka, such as track-bet- races and dog sled

Rep. Mark Boyer, establishing a state- ing the lines of those rest in New York and

Rep. Robin Taylor, allowing "historic the communities of way and Fairbanks, oer legal.

Sen. Bettye Fahren- banks, allowing his- g anywhere in the muting its forms to dice and wheel

by Rep. Fritz Pet- chorage, permitting casino gambling and cywhere in the state au populace votes its



Anchorage Daily News/Michael Perry

Continued on next page

Furrier Perry Green is a "social gambler" whose way with cards has earned him a spot in the World Series of Poker.

GAMBLING

Continued from previous page

don't want any cocaine. They want everybody to love them."

Not everyone loves Alaska's present-day gambling boom. State revenue officials liken it to a beast that's grown totally out of control. Alaska's gaming regulations are obsolete, they say, and their ability to enforce them a joke. And the losers include just about everyone involved.

One recurrent problem is a provision in the law that allows non-profit groups to assign their gambling permits to professional operators. The pros run the bingo games or lotteries or pull-tabs — pay the expenses, pay their own salaries — and are then required to pass the rest of the gambling proceeds back to the charities as profit.

Some operators do precisely that. But some have been known to pad their expenses, or run such inefficient shops that they rob the charities of thousands of dollars in profits, according to Sally Smith, former state Department of Revenue director of public services.

One report that prompted such suspicions came to the state's attention two years ago, when four Fairbanks non-profit groups — the

Not everyone loves Alaska's present-day gambling boom. State revenue officials liken it to a beast that's grown totally out of control.

Fairbanks USO, the Montessori Association, the Fairbanks Business and Professional Women, and the Midnight Sun Lions Club — received zero dollars in profit over a two-year period even though the firm that jointly operated their bingo and pull-tab games received \$1.3 million in gross revenues.

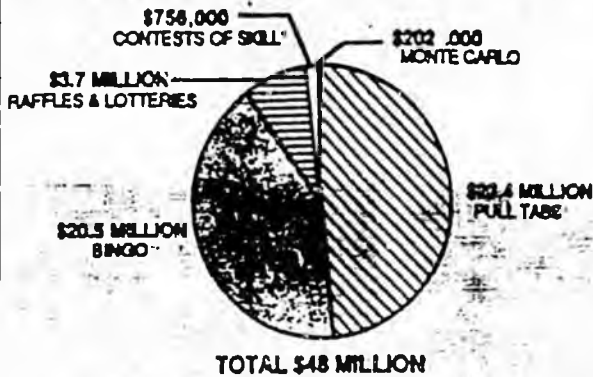
"All we could really do is write them and say, 'What's the deal,'" Smith said. She had no staff back then to audit suspected wrongdoers.

In other instances, operators have simply "turned off their cash registers" at a certain point in the evening and pocketed the rest of the night's gambling proceeds — not even bothering to fudge accounting sheets.

"A lot of the fraud tips we've gotten are from people who've gotten in the system — and gotten angry," Smith says. "They'll call and say, 'I'll tell you anything you want to know.' But usually they don't want their name used. And so there's nothing we can do."

Smith's small staff conducted a survey two years ago to try to determine how much revenue the operators should have been report-

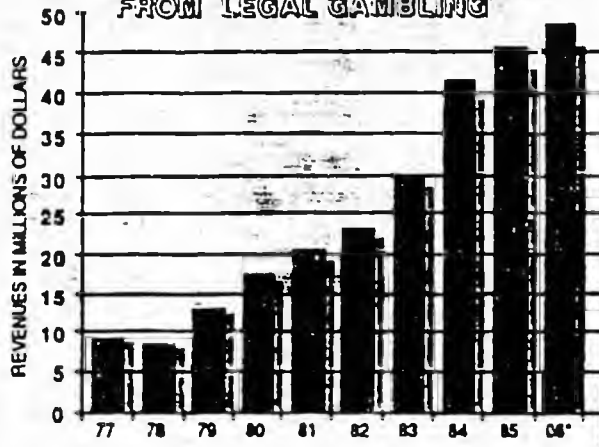
BREAKDOWN OF 1986 GAMBLING REVENUES



*CONTEST OF SKILL INCLUDE: FISH DERBY, ICE CLASSIC, DOG CONTEST, RAIN CLASSIC, GOLF, BOWLING, RODEO, ATHLETIC EVENTS, ETC.

Source: Alaska Dept. of Revenue

TOTAL GROSS REVENUES FROM LEGAL GAMBLING



*Incomplete report; only two thirds of gambling permit holders have reported income so far.
Source: Alaska Dept. of Revenue;

ing, based on an industry formula for the amount of gambling paraphernalia they were using. Reviewing the records of just 20 percent of the non-profit organizations, she found the groups had underreported their gross revenues by about \$10 million.

Extrapolating that figure, the survey estimated that all the non-profit groups together — perhaps unwittingly, perhaps deliberately — underreported their gross revenues to the state by \$50 million. A discrepancy of that magnitude would have meant \$500,000 in lost revenues to the state, inasmuch as a 1 percent tax is charged on all gambling.

"It wasn't a scientific study," Smith said. "And we didn't have anybody to follow through on it. We would have had to go out and get the hard evidence and work up a case."

Three years ago, the state did just that in a suit against Kenneth Brown, then owner/manager of

Northern Lights Bingo. Brown was charged with skimming \$810,000 in profits from five groups — the Spenard Lions, the McKinley Lions, the Association of Retarded Citizens of Anchorage, the March of Dimes and Barrier Free Recreation Inc. He had done so by paying himself a \$200-a-night salary over a two-year period — well over the \$4.85-an-hour maximum wage the state allows for bingo employees — among other extra expenses.

But the state ultimately threw out its case. It agreed to reduce the charges against Brown from a felony to a misdemeanor in exchange for his confession, partly because the defense witnesses — the charities themselves — failed to take Brown strongly to task. Generally, they were thankful for the money he had raised for them. After the trial, they retained Brown as their operator until he sold his business. Moreover, the judge scolded the prosecution for "selective enforcement" of its gaming laws — sup-

porting the defense attorney's contention that most bingo operators violate the wage limit.

It wasn't a very happy experience for the state lawyer, but Smith wasn't totally surprised. Not infrequently, she says, the courtesies the state suspects of being bilked out of profits turn out to be their operator's most ardent defenders. She theorizes why:

"If you try to run a professional gaming operation yourself, you find it's a pain in the neck. Now if (the operator) brings you back more money than you made when you were doing it yourself — not a lot more, but more than when you were doing it — you're not going to complain."

Certain legislators, however, are complaining. Among them, Rep. Dave Donley, D-Anchorage, has sponsored a bill that would require bingo and pull-tab operators to return a profit of at least 15 percent of gross revenues to their non-profit sponsors.

The legislation also would require the operators to post a \$25,000 bond for each permit they use; require financial statements to be more detailed, and filed more regularly; and set a higher fee schedule to pay for enforcement of the law.

The reforms are long overdue, Smith says. "We're the most liberal of any of the states I've seen that allow charitable gambling. We have the fewest rules."

Perry Green is what Alaska lawbooks refer to as a "social" gambler. Social gambling is legal in Alaska. Green gambles at the sweet science of poker, playing at private residences where house-odds aren't allowed and everyone has the same chance to win as everyone else. Theoretically, Green's chances are probably better than yours or mine.

The photographic evidence hanging inside his downtown bar loop, David Green Master Furner, is telling. One photo shows Green and poker immortal Amantio Sim posing together after a competition. Another shows Green winning \$175,000 in the World Series of Poker. Still another shows him traveling to Ireland as captain of the U.S. Poker Team.

"To be a good gambler you have to be relaxed," Green says, leaning back in a chair in the backroom of his bar store. "And you should always play with expendable income. It's kind of like investing in property. You don't invest your savings in property, you invest your excess savings."

"You've also got to be physically and mentally prepared. You've got to be emotionally happy. A player that's subject to big highs and big lows can't really sustain a poker career."

At 51, Green has sustained his own poker-playing for well over three decades — despite the demands of running a major business, fathering five children and grandfathering five more.

"I think the playing helps the business, and the business helps the playing," he says. "The more competition you have, the better you are in business."

To stay sharp, Green deals him-

Five legislators and their gambling proposals



Rep. Fritz Pettyjohn

Nevada-style casino gambling and horse racing statewide where local voters OK it.



Rep. Robin Taylor

"Historic gambling" in Nome, Fairbanks and Skagway, where it was once legal.



Rep. Mark Boyer

A state-run lottery along the lines of those now existing in California and New York.



Sen. Bettys Fahrnkamp

"Historic gambling" everywhere in Alaska, limited to card-playing, dice and wheel games.



Rep. Ron Larson

Statewide parimutuel wagering, such as track betting on horse races and dog-sled racing.

self practice hands everyday — sometimes as a way to fall asleep. Then he rises from bed as early as 3 o'clock to catch the end of an all-night card game. He always leaves in time to open his shop at 7.

Green welcomes more legalized gambling in Alaska — but not necessarily large hotel casinos. He'd rather see the legalization of Alaska-style card houses first.

To be a good gambler you have to be relaxed. And you should always play with expendable income. It's kind of like investing in property. You don't invest your savings in property, you invest your excess savings.

— Perry Green

"I just don't think we're ready for full-blown casinos," he says. It's too easy for the unsophisticated player to lose a lot of money.

Instead, Green favors the "historic gambling" concept advanced by Fahrnkamp, as well as parimutuel wagering.

"I would say if you had legalized poker, if you had legalized parimutuel betting (on race horses), if you had legalized bookmaking on sporting events — and you had these in major cities in Alaska, you'd raise millions of dollars," he said. "And you'd have a good employment basis."

Fahrnkamp, however, isn't overly optimistic about her gambling bill this session. It still hasn't been heard in committee. But she thinks it makes more sense than

allowing huge hotel casinos to be constructed in the state.

"I think you should crawl a little before you try and run," she says.

Larson's bill to allow parimutuel wagering, on the other hand, has already passed the House and is now awaiting action in the Senate.

And Boyer's bill to establish a state-operated lottery — which backers say would generate about \$20 million annually for Alaska — is beginning to draw second glances, given the popularity of a charity-operated lottery this winter.

State lotteries hold no interest for him, Green says. And he doubts whether Alaska's tiny population really lends itself to the kind of math that makes the drawings successful.

"If I'm going to gamble, I like to make the odds as close to 50-50 as possible — and that certainly isn't a 50-50 proposition. Except that you're going to win or lose. And the chances of losing are far greater

than your chances of winning.

"I think a lottery is a dream for some people. And that's all life is. It's a dream."

When Bill McConkey envisions the Anchorage of the Future, he sees a handsome city bustling with economic life. He sees gambling centers limited by municipal ordinance to a few strategic blocks. He sees 30,000 new jobs statewide — thanks to the casinos and new quarter-horse racetracks in Palmer and Fairbanks. He sees about 400,000 people who annually pass through Anchorage International Airport without stopping suddenly deciding to visit town. He sees about \$400 million annually in new state revenues from gambling and liquor taxes — and a local property-tax windfall that would offset any problems caused by Anchorage's increased population.

"If the municipality is wise," McConkey says, "the Egan Convention Center will probably be turned

into a municipal Anchorage casino. And the Performing Arts Center would then really be a performing arts center. You would have stage shows and musicals and professional entertainment over there of the highest order. And Sullivan Arena would really be booked with professional sports."

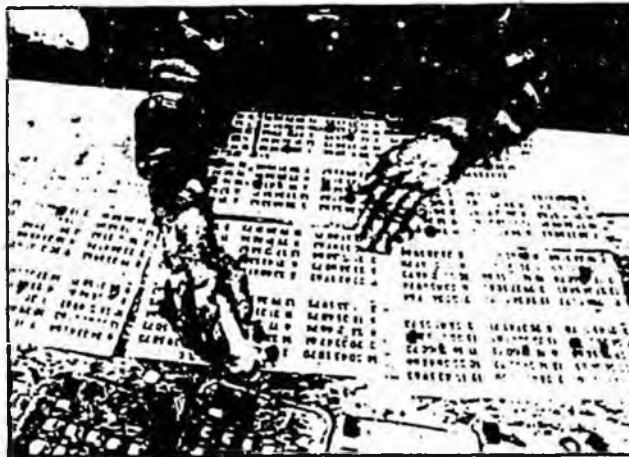
"Secondly, I would see what you would call a major development — say 5,000 to 10,000 square feet of slot machines and poker tables — down at Alyeska. You'd see probably another here (Austrian developer Robert Rogner's (proposed ski resort) in Eagle River.

"I would envision a good race track in Palmer and another one in Fairbanks, and Alaska being on a quarter-horse circuit. I would see Palmer and Fairbanks and Calgary and Whitehorse and maybe Billings and Butte and Cheyenne — a pretty good quarter-horse circuit there. I think you'd see a short season. Maybe a 45-day season. You'd see horses. You'd see good races. A lot of excitement, and a lot of fun. And you'd see some money made and some jobs created."

"Who would do all this?" "I'm not Mafia Mike," McConkey says. "I'm not going to own — you. But I know that I have Japanese interests — now you laugh, you're free to laugh — but I contacted a friend of mine in Los Angeles who does a lot of work for some Japanese businessmen. And he sent a letter back and said they are very interested in a major investment in Alaska tourism and gambling — and this sounds real good."

It sounded real good to Michael "Mafia Mike" Von Goatsensky, too, when the Anchorage mayoral candidate last summer decided to tell voters that he'd received commitments from three Las Vegas companies to build \$600 million worth of hotel-casinos in Anchorage.

But in subsequent telephone in-



Bingo games pull in more than \$20 million a year in Alaska.

Anchorage Daily News Book

Continued on next page

GAMBLING

Continued from previous page

Interviews with executives at Caesar's World, Bally Corp. and Resorts International, a Daily News reporter was told in so many words that, no, they'd never heard of Mafia Mike and, no again, they had no developmental interests in Alaska.

"I'll tell you what," said Stephen Allen, director of publicity at Bally's Las Vegas. "If someone called up here and introduced himself as Mafia Mike, I doubt he'd even say goodbye."

Von Goatsensky was undeterred. "My arrangement with them is we don't go public until the right time," he said. "They're extremely serious, but they don't want to get caught in the middle of this goat rope of a mayoral campaign."

Meanwhile, McConkey was worried whether the proposal to legalize gambling would get goat-roped by Mafia Mike. More and more, the public was beginning to identify the idea with the outspoken Von Goatsensky. McConkey says — even though he and Pettyjohn had no association with the gangster-suited pizza salesman. He also denies Von Goatsensky's assertion that he was asked by the pro-gambling committee to step down as chairman.

"I never asked Mafia Mike to gently step aside of any committee," McConkey said. "I asked him not to run for mayor. I called him up and said, 'For God sakes, don't run for mayor. For one, you don't have a chance. And two, you'll hurt the legitimate cause of bringing gambling to the state.'"

"And I was right on both counts."

Voter surveys on the issue are difficult to gauge. A railbelt poll of 500 voters last May found that a majority (61 percent) answered "yes" to the question. "Would you or do you support legislation permitting state-regulated gambling and entertainment other than existing charitable ones in Alaska?"

Conducted by ASK Information Search on behalf of citizens supporting casino gambling (not McConkey), the survey carefully avoided the emotion-laden word "casino." But a follow-up question found that feelings toward gambling varied markedly according to the type of gambling involved. Ninety-one percent of those who answered "yes" to the initial question said they would support "historical gold-rush gambling." 83 percent said they would support "horse-racing," and only 75 percent agreed to support "casino gambling" — or 47 percent of all the people interviewed.

At the same time, the survey found that the greatest support for "legislation permitting state-regulated gambling" could be found in Fairbanks (67 percent), followed by the Mat-Su Borough (64 percent), the Kenai Peninsula Borough (62

percent) and Anchorage (57 percent).

One month later, Dittman Research Corp. asked Anchorage voters a more pointed question: "Would you support or oppose legalized casino gambling in Anchorage?" A small majority, 52 percent, opposed the idea; 42 percent approved.

McConkey is fond of telling his critics they'll have at least five chances to say "no" to legalized casino gambling. "First," he says, "you don't have to sign the petition. Second, you can vote against it on the state ballot. Third, you can vote against it again on the local ballot. Fourth, you don't have to go in. And fifth, you don't have to play."

His opponents, McConkey says, would take those choices away from you.

But Baptist pastor Jerry Prevo (who faced McConkey in one public debate), and former Anchorage Police Chief Brian Porter (who met him in another) and Methodist minister John Shaffer (who wrote a newspaper essay denouncing legalizing casinos in Alaska) say it's more a matter of crime than free-choice.

Quoting from "The Boardwalk Jungle," a book about Atlantic City, Shaffer said FBI figures show that Atlantic City crime has quadrupled since 1977.

Porter took a similar tack. "Atlantic City (officials) said things were going to be different in their city, too," he said. "But two years after they started, half their gambling commission was indicted."

In his own debate, Prevo spoke of the moral decay of a place where fathers gamble away the milk money, mothers drink, and teenagers get hooked on life in a casino.

"Atlantic City, Atlantic City, Atlantic City," McConkey complains. "A teeming, crowded metropolis one hour driving time from Brooklyn. Why does (Prevo) want to keep comparing us with that?"

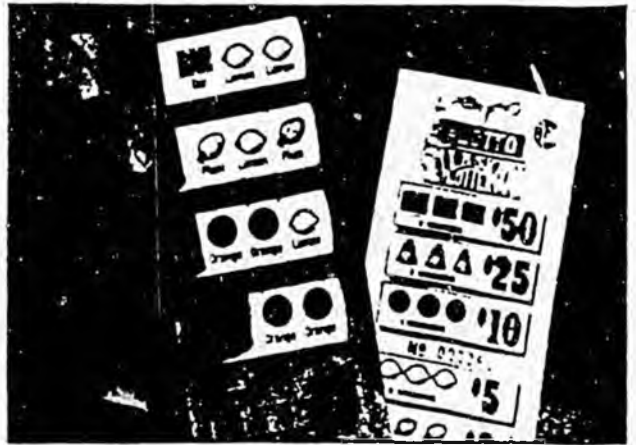
"Why doesn't he compare Anchorage to Monte Carlo — an international city on the ocean? Or Lake Tahoe — with skiing? He won't do that. All I'm asking is for these so-called honest people — who are hinting that I'm the servant of Satan — to cut that hypocritical bull — and play fair."

He takes a breath, then leans back in his chair.

"I'm not saying I have the answer to the Alaskan economy," McConkey says. "But I have one of the answers. I have one thing that might add, statewide, over three or four years, 20,000 to 30,000 jobs."

"That's good." ■

■ George Bryson is a staff writer for *We Alaskans* magazine. Fran Durner, Bob Hallinan, Erik Hill, Michael Penn and Bill Roth are Daily News photographers.



Alaskans have been buying Alotto tickets at the rate of 8,000 a day.



Sally Smith, former state revenue director of public services.

Alaska Statutes

Title 5. Amusements and Sports.

Chapter

- 05. Athletic Commission (§§ 05.05.010 — 05.05.040)
- 10. Boxing and Wrestling (§§ 05.10.010 — 05.10.170)
- 12. Arctic Winter Games (§ 05.12.010)
- 15. Games of Chance and Contests of Skill (§§ 05.15.010 — 05.15.210)
- 20. Recreational Devices (§§ 05.20.010 — 05.20.120)
- 25. Watercraft (§§ 05.25.010 — 05.25.100)
- 30. Snow Vehicles (§§ 05.30.010 — 05.30.120)
- 35. Sports Facilities Grants (§§ 05.35.010 — 05.35.100)
- 90. Miscellaneous Provisions (§ 05.90.001)

Revisor's notes. — The provisions of this title were redrafted in 1985 to remove personal pronouns pursuant to § 4, ch. 58, SLA 1982, and to make other, minor word changes.

Chapter 05. Athletic Commission.

- | Section | Section |
|--|--|
| 10. Creation and duties of athletic commission | 40. Meetings and compensation of athletic commission |
| 20. Commissioner of athletics | |
| 30. Professional and semi-professional athletic programs | |

~~Sec. 05.05.010. Creation and duties of athletic commission. (a) There is created an athletic commission within the Department of Commerce and Economic Development. The commission consists of four members appointed by the governor. One member of the commission must be appointed from each of the four major senate districts described in sec. 2, art. XIV of the state constitution. The commissioners must be appointed for overlapping two year terms. Members of the commission serve at the pleasure of the governor and must be selected on the basis of their known interest in and knowledge of athletics in the state.~~

~~(b) The commission shall act in an advisory capacity to the commissioner of athletics and shall perform other duties assigned to it by the commissioner. (§ 1 ch 147 SLA 1959; am E.O. No. 60, § 2 (1985))~~

Chapter 10. Boxing and Wrestling.

Section

- 10. Licenses for boxing and wrestling matches
- 20. Power of commission
- 30. License for contest at which admission is charged
- 40. Examination of participants in non-licensed contests
- 50. Regulations applicable to educational institutions
- 60. License required
- 70. Application for license
- 80. Duration of license

Section

- 90. Licensee bond
- 100. Statement and report of contest
- 110. Inspectors
- 120. Annual licenses to participants
- 130. Participation in purse or conducting sham contest
- 140. Participation in sham contest
- 150. Failure to make reports
- 160. Penalty for conducting contests without license
- 170. General penalty

Sec. 05.10.010. Licenses for boxing and wrestling matches. The athletic commission may issue, and for cause, revoke a license to conduct boxing contests, sparring or wrestling matches, or exhibitions as provided in this chapter under terms and conditions and at times and places as the commission may determine. The holder of a license may conduct boxing contests, sparring and wrestling matches, and exhibitions under terms and conditions and at times and places as the commission may determine. If the commission refuses to grant a license to an applicant, or cancels a license, the applicant, or the holder of the cancelled license may, upon application, have a hearing under the provisions of the Administrative Procedure Act (AS 44.62). (§ 1 ch 157 SLA 1960)

Collateral references. — 4 Am. Jur. 2d. Amusements and Exhibitions, §§ 26, 27, 29-34, 44.
 53 C.J.S. Licenses, §§ 4-11, 26, 27, 30;
 72 C.J.S. Prize Fighting, §§ 1-6; 86 C.J.S. Theaters and Shows, §§ 3, 4, 10, 17, 23-29.
 Constitutionality and construction of statutes subjecting pugilistic and wres-

tling contests to regulation by commissioner or otherwise. 83 ALR 696.
 Liability for injury for one attending wrestling or boxing match or exhibition. 14 ALR3d 993.
 Validity of state or local regulation dealing with resale of tickets to theatrical or sporting events. 81 ALR3d 655.

Sec. 05.10.020. Power of commission. The commission shall direct, supervise, and control all boxing contests, or sparring and wrestling matches or exhibitions conducted inside the state and a boxing contest, sparring or wrestling match or exhibition may not be held inside the state except in accordance with the provisions of this chapter. (§ 2 ch 157 SLA 1960)

Sec. 05.10.080. Duration of license. The licenses provided for in AS 05.10.070 and 05.10.120 shall be issued for a six-month or 12-month period and shall expire on June 30 and December 31 of each year. (§ 4 ch 157 SLA 1960)

Sec. 05.10.090. Licensee bond. A licensee shall file a good and sufficient bond in the sum of \$1,000 with the commission in cities of fewer than 10,000 inhabitants and a good and sufficient bond in the sum of \$2,500 in cities of more than 10,000 inhabitants. The bond shall be conditioned for the faithful performance by the licensee of the provisions of this chapter, the payment of the taxes as provided for in this chapter and the obeying of all regulations of the commission. The bond is subject to the approval of the attorney general. (§ 5 ch 157 SLA 1960)

Sec. 05.10.100. Statement and report of contest. A licensee shall, within three days before the holding of a boxing contest, sparring or wrestling match, or exhibition, file with the commission a statement setting forth the name of each contestant, the contestant's manager and other information the commission requires. One week after the completion of the contest, the licensee shall file with the Department of Revenue and the commission a written verified report, showing the number of tickets sold for the contest, the price charged for them and the gross proceeds from the sale, and other information the commission requires. (§ 6 ch 157 SLA 1960)

Sec. 05.10.110. Inspectors. The commission may appoint official inspectors. In the absence of a member of the commission, at least one inspector shall be present at any boxing contest, sparring or wrestling match, or exhibition held under this chapter. An inspector shall carry a card signed by the chairman of the commission evidencing the inspector's authority. The inspector shall see that all regulations of the commission and the provisions of this chapter are strictly complied with and shall be present at the accounting of the gross receipts of the contest. An inspector may receive from the licensee the statement of receipts provided for in this chapter and shall immediately transmit the statement to the commission and to the Department of Revenue. An inspector is entitled to a fee not exceeding \$7.50 for each contest officially attended. (§ 7 ch 157 SLA 1960)

Sec. 05.10.140. Participation in sham contest. A contestant who participates in a sham or fake boxing contest or sparring match or exhibition or who violates a regulation of the commission shall be penalized as follows:

(1) for the first offense the contestant shall be restrained by order of the commission for a period of at least three months from participating in a contest held under the provisions of this chapter, with the suspension taking effect immediately after the occurrence of the offense;

(2) for a second offense the contestant shall be permanently suspended from participation in a contest held under the provisions of this chapter. (§ 10 ch 157 SLA 1960)

Sec. 05.10.150. Failure to make reports. Whenever a licensee fails to make a report of a contest within the time prescribed by this chapter or when the report is unsatisfactory to the commission or to the Department of Revenue, the secretary shall examine the books and records of the licensee. The secretary may subpoena and examine under oath the licensee and any other person the secretary considers necessary to a determination of the total gross receipts from a contest and the amount of tax on the receipts. If, upon the completion of the examination, it is determined that an additional tax is due, notice shall be served upon the licensee, and, upon failure to pay the additional tax within 20 days after service of the notice, the licensee forfeits the license and is permanently disqualified from receiving a new license. In addition the licensee and the members thereof are jointly and severally liable to the state in the penal sum of \$1,000. (§ 11 ch 157 SLA 1960)

Sec. 05.10.160. Penalty for conducting contests without license. A person, club, corporation, organization, association or fraternal society conducting boxing, sparring or wrestling contests or exhibitions without a license is guilty of a misdemeanor. (§ 12 ch 157 SLA 1960)

Cross references. — As to sentences for misdemeanors, see AS 12.55.135. Licenses, §§ 59-61, 66-71; 86 C.J.S., Theaters and Shows, §§ 29, 58, 59.

Collateral references. — 53 C.J.S.,

Article 1. Administration.

Section	Section
10. Department of Revenue to administer chapter	50. Surrender of permit upon suspension or revocation
20. Annual permit and fee	60. Regulations
30. Notification of local governments and protests	70. Commissioner of revenue may examine permittees
40. Issuance and effect and term of permit	80. Reports by permittees
	90. Reports to the legislature

Sec. 05.15.010. Department of Revenue to administer chapter.
 The Department of Revenue shall administer this chapter. (§ 3 ch 27 SLA 1960)

Opinions of attorney general. — AS 05.15.010 — 05.15.210 does not create any new categories of prohibited gambling activities. 1962 Op. Att'y Gen., No. 22.

Collateral references. — 38 Am. Jur. 2d, Gambling, §§ 1-9, 10-14, 17-19, 41, 42, 49, 57-61, 67, 74, 190, 264-268.

38 C.J.S., Gaming, §§ 80 to 132; 54 C.J.S., Lotteries, § 1 et seq.

What transactions are within the purview of statutes or ordinances in relation to gifts or prizes or gift enterprises. 39 ALR 1035.

Constitutionality of statute which affirmatively permits certain forms of betting or gambling. 85 ALR 622.

Construction and application of statutes permitting specified forms of betting. 117 ALR 828.

Lottery as game of chance. 135 ALR 168.

What are games of chance, games of skill, and mixed games of chance or skill. 139 ALR 104.

Validity and construction of statute exempting gambling operations carried on by religious, charitable, or other nonprofit organizations from general prohibitions against gambling. 42 ALR3d 663.

Sec. 05.15.020. Annual permit and fee. An activity permitted under this chapter may not be conducted unless an annual permit issued by the department is first obtained and a fee of \$20 is paid to the department. An additional fee of one per cent of the net proceeds shall be paid by each permittee annually. This fee is due and payable at the same time as the annual financial statement. (§ 3 ch 27 SLA 1960; am § 1 ch 182 SLA 1976)

Sec. 05.15.030. Notification of local governments and protests. (a) At the time of filing application the applicant shall notify the city or borough nearest to the location of the proposed activity of the application. A local government unit may protest the conduct of the activity in its jurisdiction by resolution stating the reasons for the protest filed with the department; protests are limited to the lack of qualifications prescribed by this chapter. This resolution is only a recommendation by the city which may be considered by the commissioner in determining whether to issue or refuse to issue a permit.

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

noneducational, nonreligious, or profit-making organizations, individuals or groups;

(3) the immediate revocation of permits if this chapter or regulations issued under it are violated;

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

(5) the investigation of permittees and their employees, including the fingerprinting of those permittees and employees whom the commissioner considers it advisable to fingerprint;

(6) exclusion from participation as a permittee or employee of a permittee of any person convicted of a felony, a crime involving moral turpitude, or violation of a municipal, state, or federal gambling law;

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

(8) the number of activities that may be held, operated, or conducted under a permit during a specified period;

(9) a method of accounting for receipts and disbursements including the keeping of records and requirements for the separate banking of all receipts, and payments by check only;

(10) the disposition of funds in possession of a permittee at the time a permit is surrendered, revoked or invalidated;

(11) other matters the commissioner considers necessary to carry out this chapter or protect the best interest of the public. (§ 4 ch 27 SLA 1960)

Opinions of attorney general. — Under AS 05.15.210 a permit may be issued which gives a qualified organization the privilege of conducting any of the designated activities. AS 05.15.040 limits the activities that may be conducted to those activities specified in the permit. Under AS 05.15.060 the commissioner has au-

thority to further limit the number of activities which may be conducted pursuant to any permit. Therefore, absent any regulation to the contrary, a permit could be issued for more than one activity to a qualified organization. 1960 Op. Att'y Gen., No. 8.

NOTES TO DECISIONS

Annulment of regulations by legislature. — The legislature acting under AS 44.62.320(a) could not constitutionally annul by concurrent resolution a regulation prohibiting lottery owners from giv-

ing prizes exceeding certain personal and real property limits. *State v. A.L.I.V.E. Voluntary*. Sup. Ct. Op. No. 1022 (File No. J670), 606 P.2d 769 (1980).

Each year a municipality or qualified organization may apply for a permit under this subsection for either a single event lasting no more than three consecutive days, or for no more than three events lasting no more than one day each. (§ 1 a ch 27 SLA 1960; am § 1 ch 66 SLA 1976; am § 2 ch 27 SLA 1982; am § 2 ch 59 SLA 1983)

Effect of amendments. — The 1982 amendment inserted "municipality or" in the first and second sentences. The 1983 amendment designated the existing language as subsection (a) and added subsection (b).

NOTES TO DECISIONS

Quoted in *State v. A.L.I.V.E. Voluntary*, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980).

Collateral references. — 38 Am. Jur. 2d, Gambling, §§ 10-19. 38 C.J.S., Gaming, §§ 2, 50, 80-83; 54 C.J.S., Lotteries, §§ 11-17.

Sec. 05.15.110. Authorized activities a privilege. The activities specified in AS 05.15.100 may be permitted as a privilege and do not confer a right upon any person to conduct the activities. (§ 1 b ch 27 SLA 1960)

Sec. 05.15.120. Eligibility for permit. An applicant shall be a municipality or qualified organization to be eligible for a permit. (§ 1 c ch 27 SLA 1960; am § 3 ch 27 SLA 1982)

Effect of amendments. — The 1982 amendment inserted "municipality or."

NOTES TO DECISIONS

Cited in *State v. A.L.I.V.E. Voluntary*, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980).

Sec. 05.15.130. Commissioner may impose additional requirements for eligibility. The commissioner of revenue may supplement the definitions of qualified organizations and activities by regulations adopted under this chapter adding to the definitions additional requirements which the commissioner considers necessary for the best interests of the public or for the proper administration of this chapter. (§ 1 d ch 27 SLA 1960)

within one year to one or more of the uses stated in (a) of this section. A municipality or qualified organization desiring to hold the net proceeds for a period longer than one year must apply to the commissioner of revenue for special permission and upon good cause shown the commissioner may grant the request. (§ 1 e ch 27 SLA 1960; am § 6 ch 66 SLA 1976; am § 5 ch 27 SLA 1982)

Effect of amendments. — The 1982 amendment, in subsection (b), added "in (a) of this section" to the end of the first sentence and substituted "A municipality or qualified organization" for "An organization" at the beginning of the second sentence.

NOTES TO DECISIONS

Quoted in *State v. A.L.I.V.E. Voluntary*, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980).

Sec. 05.15.160. Authorized expenses. An item of expense may not be incurred or paid in connection with the operation of an activity under a permit issued under this chapter except for bona fide expenses reasonably necessary for

(1) goods, wares, and merchandise necessary for the operation of the activity;

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

(3) personal services involved with the operation of the activity provided the services are performed by an employee of the municipality, qualified organization, or a consultant hired by the municipality or qualified organization conducting the activity and the compensation is not related to the receipts from the activity. (§ 1 e ch 27 SLA 1960; am § 4 ch 59 SLA 1983)

Effect of amendments. — The 1983 amendment rewrote this section.

Sec. 05.15.170. Suspension of permit. The commissioner of revenue may suspend a permit pending investigation or hearing. The suspension is effective upon the giving of notice to the permittee. The notice may be given by the delivery or handing of written notice to the permittee or a person conducting an activity under the permittee's permit or the mailing of notice to the permittee at the address shown on the permit. A permit may be suspended under this section for a period of 90 days or until the end of a hearing or other proceeding begun during suspension. The authority of the commissioner to suspend a permit is not subject to the Administrative Procedure Act (AS 44.62). (§ 5 ch 27 SLA 1960)

Collateral references. — 38 Am. Jur.
2d. Gambling, § 18.
54 C.J.S., Lotteries, §§ 18, 19.

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

(b) A person who, with the intent to mislead a public servant in the performance of the public servant's duty, submits a false statement in an application for a permit under this chapter, is guilty of unsworn falsification. (§ 7 ch 27 SLA 1960; am § 7 ch 59 SLA 1983)

Cross references. — As to sentences for misdemeanors, see AS 12.55.135.

Effect of amendments. — The 1983 amendment rewrote this section.

Sec. 05.15.210. Definitions. In this chapter

(1) "bingo" means a game of chance of, and restricted to, the selling of rights to participate, and the awarding of prizes, in the specific kind of game of chance sometimes known as bingo or lotto, played with cards bearing numbers or other designations, five or more in one line, the holder covering numbers when objects similarly numbered are drawn from a receptacle, and the game being won by the person who first covers a previously designated arrangement of numbers on the card;

(2) "charitable organization" means an organization, not for pecuniary profit, that is operated for the relief of poverty, distress, or other condition of public concern in the state, and that has been so engaged for five years before applying for a permit under this chapter;

(3) "civic or service organization" means any branch or lodge or chapter of a national or state organization that is a civic or service organization, not for pecuniary profit, and authorized by its written constitution, charter, or articles of incorporation, or bylaws to engage in a fraternal, civic or service purpose in the state and that has been so engaged for five years before applying for a license under this chapter;

(4) "contest of skill" means a contest or game in which prizes are awarded for the demonstration of human skills in marksmanship, races, and other athletic events;

(5) "dog mushers' association" means a civic, service or charitable organization in the state, not for pecuniary profit, formed exclusively to promote interest in the breeding and training of dog teams for work or recreational and racing purposes and which has been in existence for five years before applying for a permit under this chapter, but does not include an organization formed or operated for gaming or gambling purposes;

used in a game of chance in which the outcome is determined by the number or figure selected by the device; not including games in which a hamster or other animal is placed in an enclosure with several numbered exit holes and the winner is determined by which hole the hamster or other animal exits, or slot machines or other devices that operate by insertion of a coin or other object that may entitle the person operating the machine to receive a prize by strict dependence on the element of chance;

(17) "police or fire department and company" means a civic, service or charitable organization in the state, not for pecuniary profit, established by the state or a political subdivision of the state that has been in existence for five years before applying for a license under this chapter;

(18) "political organization" means an organization or club organized under or formally affiliated with a political party as defined in AS 15.60.010;

(19) "qualified organization" means a bona fide civic or service organization or a bona fide religious, charitable, fraternal, labor, political, or educational organization, police or fire department company, dog mushers' association, outboard motor association, or fishing-derby or nonprofit trade association in the state, that operates without profits to its members and that has been in existence continually for a period of five years immediately before applying for a license; the organization may be a firm, corporation, company, association or partnership;

(20) "raffle and lottery" means the selling of rights to participate, and the awarding of prizes, in the specified kinds of games of chance sometimes known as pull-tab games in which the price of each chance is \$2 or less and in the specified kind of game of chance sometimes known as a raffle or lottery, conducted by the drawing for prizes by chance;

(21) "rain classic" means a game of chance in that a prize is awarded for the closest guess of the amount of precipitation which is recorded at a certain location during a certain length of time;

(22) "religious organization" means an organization, church, body of communicants, or group, not for pecuniary profit, gathered in common membership for mutual support and edification in piety, worship and religious observances, or a society, not for pecuniary profit, of individuals united for religious purposes at a definite place and that has been so gathered or united for five years before applying for a license and is recognized as a religious organization under the federal income tax laws and the selective service law;

(23) "veterans organization" means a civic, service or charitable organization in the state, or a branch or lodge or chapter of a national or state organization in the state, not for pecuniary profit, the membership of which consists of individuals who were members of the

Sec. 05.20.010. Owners or operators to provide safe equipment. An owner or operator of a device as defined in AS 05.20.120 shall construct, furnish, maintain and provide safe and adequate facilities and equipment with which to safely and properly receive and carry all persons offered to and received by the owner or operator of the device, and to promote the safety of the patrons, employees and the public. The owner or operator of ski equipment and devices is not considered a common carrier. (§ 1 ch 109 SLA 1960; am § 1 ch 25 SLA 1967)

Collateral references. — 4 Am. Jur. 2d, Amusements and Exhibitions, §§ 76, 88-93, 99, 106.

Dangerous or defective amusement ride. 25 Am. Jur. POF2d, pp. 613-656.

81A C.J.S., States, § 139.

Duty and liability of owner or keeper of place of amusement respecting injuries to patrons. 22 ALR 610; 29 ALR 29; 38 ALR 357; 44 ALR 203; 53 ALR 855; 61 ALR 1289; 98 ALR 557.

Liability to patron of public amusement for accidental injury from cause other than assault, hazards of game or amusement, or condition of premises. 16 ALR2d 912.

Liability of proprietor for injury to customer or patron caused by pushing, crowding, etc., of other patrons. 20 ALR2d 8.

Liability to patron of scenic railway, roller coaster, or miniature railway. 66 ALR2d 689.

Liability for injury to one on or near merry-go-round. 75 ALR2d 792.

Liability of owner, lessee, or operator for injury or death on or near loop-o-plane, ferris wheel, miniature car, or similar rides. 86 ALR2d 350.

Liability of owner or operator of theater or other place of amusement to patron injured by condition or defect in lavatory, rest room, or toilet facilities. 88 ALR2d 1090.

Validity, construction, and effect of agreement exempting operator of amusement facility from liability for personal injury or death of patron. 8 ALR3d 1393.

Liability for injury to customer or patron from amusement device maintained by store or shopping center for use of customer. 14 ALR3d 815.

Liability of owner or operator for injury to patron of fair, carnival, or the like, from operation of sideshows, games, or similar concessions. 24 ALR3d 945.

Sec. 05.20.012. Liability for accidents in skiing areas. [Repealed, § 4 ch 80 SLA 1980.]

Sec. 05.20.020. Department of Labor to inspect devices. The Department of Labor is responsible for the inspection of devices. (§ 2 ch 109 SLA 1960; am E.O. No. 49, § 2 (1981))

Effect of amendments. — The 1981 amendment substituted "Department of Labor" for "Department of Public Safety."

the inspector may condemn the equipment and shall immediately notify the department of the action. (§ 4 ch 109 SLA 1960)

Sec. 05.20.060. Annual inspections. The inspector of devices and the inspector's assistants shall inspect each device at least once each year. (§ 4 ch 109 SLA 1960)

Sec. 05.20.070. Regulations. The department may adopt reasonable regulations and codes relating to public safety in the construction, operation and maintenance of devices. The regulations and codes shall be in accordance with established standards, if any, and may not be discriminatory in their application. (§ 5 ch 109 SLA 1960)

Sec. 05.20.080. Application of Administrative Procedure Act. The procedure for review of the orders or actions of the department, its agents or employees, is the same as that contained in the Administrative Procedure Act (AS 44.62). (§ 8 ch 109 SLA 1960)

Sec. 05.20.090. State not liable for injury or damage. Inspections, regulations and orders of the department do not impose liability upon the state for injury or damage resulting from the operation of the facilities regulated by this chapter. An action of the department and its personnel is an exercise of the police power of the state. (§ 7 ch 109 SLA 1960)

Sec. 05.20.100. Authority of political subdivisions to regulate devices. This chapter does not impair the authority or responsibility of a political subdivision with regard to the local enforcement of licensing, safety, or police regulation authorized by local ordinance or state law if the department determines that the standards employed by the political subdivision are at least equal to those adopted by the department. The authority of a political subdivision as to the licensing, safety or police regulation of devices extends to a point five miles outside the territorial limits of the political subdivision if no other political subdivision of the state is exercising similar authority over the same devices. (§ 6 ch 109 SLA 1960)

Sec. 05.20.110. Exclusion of transportation devices under jurisdiction of other agencies from chapter. This chapter does not extend to the department or to political subdivisions authority to adopt regulations pertaining to transportation facilities or devices subject to the regulatory jurisdiction of other state or local agencies. (§ 9 ch 109 SLA 1960)

its parts, supplies or equipment. 1
ALR4th 411.

Sec. 05.25.012. Diver's flag. A person who is in the water using an underwater breathing device may display a diver's flag constructed of rigidly supported material at least 12 inches by 12 inches in area of red background with a white diagonal stripe. This diver's flag may be displayed on a boat or surface float and shall extend a minimum distance of three feet from the surface of the water. The diver's flag shall be placed at or near the point of submergence and constitutes a warning that a diver is submerged and may be within 100 feet of the flag. A diver shall remain within 100 feet of the diver's flag while at or near the surface. A boat operator within sight of a diver's flag shall proceed with caution, steering clear of the flag by a distance of 100 feet. Outside commercial shipping lanes, boats maneuvering within a 100-foot radius of a diver's flag shall be slowed to no-wake speeds or five miles per hour, whichever is necessary to maintain steerage in the seaway. A diver's flag shall be displayed only while diving operations are underway. (§ 1 ch 29 SLA 1980)

Sec. 05.25.020. Water skis and surfboards. A person may not operate a watercraft on the inland waters of this state for towing a person on water skis, or a surfboard, or similar devices unless (1) the watercraft is equipped with a rearview mirror in which the person being towed can be viewed, (2) or there is in the watercraft a person of 12 years of age or older in addition to the operator, in a position to observe the progress of the person being towed. (§ 5 ch 63 SLA 1961)

Article 2. Accidents and Liability.

Section

30. Collisions, accidents and casualties

40. Owner's civil liability

Sec. 05.25.030. Collisions, accidents and casualties. (a) The operator of a watercraft involved in a collision, accident or casualty shall give to other persons affected by the collision, accident or casualty assistance that is necessary to save them from or minimize any danger caused by the collision, accident or casualty, and shall give the operator's name, address and identification of the operator's watercraft in writing to any person injured and to the owner of any property damaged in the collision, accident or casualty.

(b) In the case of collision, accident, or casualty involving a watercraft, the operator of the watercraft, if the collision, accident or casualty results in death or injury to a person or damage to property

Article 3. General Provisions.**Section**

- 50. Declaration of policy
- 60. Prohibited operation
- 70. Exemptions
- 80. Enforcement
- 90. Penalties
- 100. Definitions

Sec. 05.25.050. Declaration of policy. It is the policy of this state to promote safety for persons and property in and connected with the use, operation and equipment of vessels in recreational pursuits in inland waters and to promote uniformity of laws relating thereto. (§ 1 ch 33 SLA 1961)

NOTES TO DECISIONS

Applied in *Churchill v. F/V Fjord*, 744 F.2d 677 (9th Cir. 1984).

Sec. 05.25.060. Prohibited operation. (a) A person may not operate a watercraft whether for recreational purposes or any other purpose or manipulate water skis, a surfboard, or a similar device on the waters of the state in a reckless or negligent manner so as to endanger the life or property of another person.

(b) A person may not operate a watercraft whether for recreational purposes or any other purpose in violation of AS 28.35.030 on the waters of the state while under the influence of any intoxicating liquor, narcotic drug, barbiturate or marijuana. (§ 3 ch 63 SLA 1961; am § 1 ch 60 SLA 1976; am § 3 ch 117 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "in violation of AS 28.35.030" for "or manipulate water skis, a surfboard, or a similar device" in subsection (b).

NOTES TO DECISIONS

Cited in *Ravin v. State*, Sup. Ct. Op. No. 1156 (File No. 2135), 537 P.2d 494 (1975).

NOTES TO DECISIONS

Applicability of chapter. — This chapter, specifically AS 05.25.40, was intended to cover nondocumented vessels temporarily devoted to recreational purposes, even though generally used commercially. *Churchill v. F.V. Fjord*, 744 F.2d 677 (9th Cir. 1984).

Chapter 30. Snow Vehicles.

Article

- 1. Registration (§§ 05.30.010 — 05.30.050)
- 2. Regulation and Equipment (§§ 05.30.070 — 05.30.080)
- 3. General Provisions (§§ 05.30.100 — 05.30.120)

Article 1. Registration.

Section	Section
10. Unlawful to operate unregistered vehicle	30. Exemption from registration fee
20. Registration and registration fee	40. Registration certificate and decals
	50. Transfer of ownership

Sec. 05.30.010. Unlawful to operate unregistered vehicle. Except for operation on the owner's private property, a person may not operate a snow vehicle unless the snow vehicle has been registered with the Department of Public Safety as provided in this chapter. (§ 1 ch 182 SLA 1968; am § 1 ch 214 SLA 1975)

Collateral references. — 7A Am. Jur. 60 C.J.S., *Motor Vehicles*, §§ 58-65, 2d, *Automobiles and Highway Traffic*, 97-101, 105-145. §§ 5, 55, 58, 215.

Sec. 05.30.020. Registration and registration fee. A registration is valid for two years commencing September 1, 1968. The registration fee is \$5, which shall be paid into the general fund. (§ 1 ch 182 SLA 1968)

Sec. 05.30.030. Exemption from registration fee. Snow vehicles owned by the federal or state government or a political subdivision of the federal or state government shall be registered but are not required to pay a registration fee. (§ 1 ch 182 SLA 1968)

Sec. 05.30.040. Registration certificate and decals. (a) Upon registration of a snow vehicle, the registrant shall be issued a registration certificate and two numbered decals containing the registration number of the vehicle. Once a snow vehicle has been issued a number, it shall retain that number until the vehicle is destroyed, abandoned or permanently removed from the state. Numbered registration decals shall be displayed on each side of the cowl of a snow vehicle.

§ 05.30.100

AMUSEMENTS AND SPORTS

§ 05.30.120

vehicles, aircraft or boats. 49 ALR2d
1202.

Article 3. General Provisions.

Section

100. Reporting of accidents
110. Penalty

Section

120. Definition

Sec. 05.30.100. Reporting of accidents. The operator of a snow vehicle involved in an accident resulting in injury to, or death of a person, or property damage other than to the operator's snow vehicle the estimated amount of which is \$100 or more, shall immediately, by the quickest means of communication, give notice of the accident to the nearest state trooper or city police officer. (§ 1 ch 182 SLA 1968)

Collateral references. — Accidents Liability for injury or death allegedly involving negligence in operation of snowmobile, skimobile, or similar vehicle. 42 ALR3d 1422. caused by defect in snowmobile or other recreational-purpose vehicle. 81 ALR3d 394.

Sec. 05.30.110. Penalty. A person who violates a provision of this chapter or a regulation adopted under this chapter is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than \$100 for each offense. (§ 1 ch 182 SLA 1968)

Cross references. — As to sentences for misdemeanors, see AS 12.55.135.

Sec. 05.30.120. Definition. In this chapter "snow vehicle" means a vehicle propelled by mechanical power, supported in part by skis, belts, cleats, or low pressure tires, and primarily designed to travel over ice or snow. (§ 1 ch 182 SLA 1968)

Chapter 35. Sports Facilities Grants.

Section

10. Grant of funds for sports facilities
20. Application and disbursement
30. Maintenance and employment of facility
40. Power of municipality

Section

50. Limitation
60. Administration
70. Definitions
100. Alaska Winter Olympics account

Sec. 05.35.050. Limitation. No more than one grant under this chapter may be made within an organized borough. If an organized borough refuses or fails to undertake a project within one year of July 1, 1972, a first class city within that organized borough may undertake a sports facility project. (§ 2 ch 155 SLA 1972)

Sec. 05.35.060. Administration. The commissioner shall administer the grant program and in so doing liberally interpret this chapter. (§ 2 ch 155 SLA 1972)

Sec. 05.35.070. Definitions. In this chapter

(1) "commissioner" means the commissioner of commerce and economic development;

(2) "cost of construction" includes, in addition to costs directly related to the project, the sum total of all costs of financing and carrying out of the project; these include, but are not limited to, the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property and the acquisition of machinery and equipment as may be necessary in connection with the project; and allocable portion of the administrative and operating expenses of the grantee; the cost of financing the project, including interest on bonds issued to finance the project; and the cost of other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositaries, financial advisors, and paying agents for the bonds issued as the issuer considers necessary; it does not include the cost of promotion, travel, or feasibility studies;

(3) "facility" means a covered stadium or arena or any combination of them, or any other similar structure or structures, including related improvements such as parking areas, locker rooms, concession stands, restaurants, offices, press boxes, rest rooms, and storage areas, and including fixed or portable equipment, used in the operation of the facility;

(4) "municipality" means an organized borough of any class or a first class city outside an organized borough;

(5) "population" means the population of a municipality established by the final official 1970 U.S. Census or other reliable population data;

(6) "used principally for sports" means that the major use of a facility shall be for sporting events such as baseball games, rodeos, football games, soccer games, track and field meets, ice hockey matches, basketball games, and boxing and wrestling matches, viewed by spectators in substantial numbers, and that the use of a

Revisor's notes. — Formerly AS 05.35.010 and 05.35.020. Renumbered and reorganized in 1981.

Effect of amendments. — The 1983 amendment rewrote this section.

Collateral references. — 4 Am. Jur. 2d, Amusements and Exhibitions, §§ 28, 29-34, 46, 78.

61A C.J.S., Motor Vehicles, §§ 571-587.
Zoning regulation forbidding "racing" or a "race track." 83 ALR2d 877.

Liability of participant in unauthorized highway race for injury to third person directly caused by other racer. 13 ALR3d 431.

Liability of public authority for injury arising out of automobile race conducted on street or highway. 80 ALR3d 1192.

Automobile or horse race: liability for injury or death of participant in automobile or horse race at public track. 13 ALR4th 623.

Alaska Statutes

Title 5. Amusements and Sports.

Chapter

- 05. Athletic Commission (§ 05.05.010)
- 15. Games of Chance and Contests of Skill (§§ 05.15.060, 05.15.100, 05.15.180, 05.15.210)
- 20. Recreational Devices (§ 05.20.040)
- 35. Sports Facilities Grants (§ 05.35.100)

Chapter 05. Athletic Commission.

Section

- 10. Creation and duties of athletic commission

Sec. 05.05.010. Creation and duties of athletic commission.

(a) There is created an athletic commission within the Department of Commerce and Economic Development. The commission consists of four members appointed by the governor. One member of the commission shall be appointed from each of the four judicial districts. The commissioner shall be appointed for overlapping four-year terms. Members of the commission serve at the pleasure of the governor and shall be selected on the basis of their known interest in and knowledge of athletics in the state.

(b) The commission shall act in an advisory capacity to the commissioner of athletics and shall perform other duties assigned to it by the commissioner. (§ 1 ch 147 SLA 1959; am E.O. No. 60, § 2 (1985); am § 5 ch 37 SLA 1986; am § 1 ch 94 SLA 1987)

Effect of amendments. — The 1986 amendment substituted "judicial districts" for "major senate districts described in sec. 2, art. XIV of the state constitution" at the end of the third sentence of subsection (a).

The 1987 amendment, effective June 18, 1987, in subsection (a) substituted "four-year" for "two year" in the fourth sentence and substituted "shall" for "must" throughout the subsection

(12) other matters the commissioner considers necessary to carry out this chapter or protect the best interest of the public. (§ 4 ch 27 SLA 1960; am § 1 ch 94 SLA 1986)

Effect of amendments. — The 1986 amendment in the introductory language deleted ". no later than September 7, 1960." preceding "regulations necessary." designated former paragraph (11) as present paragraph (12), added present paragraph (11) and inserted a comma following "revoked" in paragraph (10).

Article 2. Licenses and Permits.

<p>Section 100. Commissioner of revenue may issue permits</p>	<p>Section 180. Limitations on authorized activity permits</p>
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Sec. 05.15.100. Commissioner of revenue may issue permits.

(a) The commissioner of revenue may issue a permit to a municipality or qualified organization. The permit gives the municipality or organization the privilege of conducting bingo, raffles and lotteries, ice classics, rain classics, goose classics, mercury classics, salmon classics, dog mushers' contests, fish derbies, and contests of skill.

(b) The commissioner of revenue also may issue a permit giving a municipality or qualified organization the privilege of conducting an activity involving the use of playing cards, dice, and numbers wheels. Each year, a municipality or qualified organization may apply for a permit under this subsection for either a single event lasting no more than three consecutive days, or for no more than three events lasting no more than one day each. (§ 1 a ch 27 SLA 1960; am § 1 ch 66 SLA 1976; am § 2 ch 27 SLA 1982; am § 2 ch 59 SLA 1983; am § 1 ch 93 SLA 1986; am § 2 ch 94 SLA 1986)

Effect of amendments. — The first amendment inserted "goose classics, mercury classics," in subsection (a) and inserted a comma following "derbies." The second 1986 amendment in subsection (a) inserted "salmon classics." in the second sentence.

Sec. 05.15.180. Limitations on authorized activity. (a) Except as provided in AS 05.15.100(b), this chapter does not authorize the use of playing cards, dice, roulette wheels, coin-operated instruments or machines, or other objects or instruments used, designed, or intended primarily for gaming or gambling or any other method or implement not expressly authorized by the commissioner.

(b) With the exception of raffles, lotteries, rain classics, goose classics, mercury classics, salmon classics, and other activities authorized under AS 05.15.100(b), an activity may not be licensed under this chapter unless it existed in the state in substantially the same form and was conducted in substantially the same manner before January 1, 1959.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Alaska Statutes

Title 5. Amusements and Sports.

Chapter

- 05. Athletic Commission (§ 05.05.010)
- 15. Games of Chance and Contests of Skill (§§ 05.15.060, 05.15.100, 05.15.180, 05.15.210)
- 20. Recreational Devices (§ 05.20.040)
- 35. Sports Facilities Grants (§ 05.35.100)

Chapter 05. Athletic Commission.

Section

- 10. Creation and duties of athletic commission

Sec. 05.05.010. Creation and duties of athletic commission.

(a) There is created an athletic commission within the Department of Commerce and Economic Development. The commission consists of four members appointed by the governor. One member of the commission shall be appointed from each of the four judicial districts. The commissioners shall be appointed for overlapping four-year terms. Members of the commission serve at the pleasure of the governor and shall be selected on the basis of their known interest in and knowledge of athletics in the state.

(b) The commission shall act in an advisory capacity to the commissioner of athletics and shall perform other duties assigned to it by the commissioner. (§ 1 ch 147 SLA 1959; am E.O. No. 60, § 2 (1985); am § 5 ch 37 SLA 1986; am § 1 ch 94 SLA 1987)

Effect of amendments. — The 1986 amendment substituted "judicial districts" for "major senate districts described in sec. 2, art. XIV of the state constitution" at the end of the third sentence of subsection (a).

The 1987 amendment, effective June 18, 1987, in subsection (a) substituted "four-year" for "two year" in the fourth sentence and substituted "shall" for "must" throughout the subsection.

Chapter 15. Games of Chance and Contests of Skill.

Article

1. Administration (§ 05.15.060)
2. Licenses and Permits (§§ 05.15.100, 05.15.190)
3. General Provisions (§ 05.15.210)

Article 1. Administration.

Section

60 Regulations

Sec. 05.15.060. Regulations. In accordance with the Administrative Procedure Act (AS 44.62), the commissioner of revenue shall adopt regulations necessary to carry out this chapter covering, but not limited to

- (1) the issuance, renewal, and revocation of permits;
- (2) a method of ascertaining net proceeds, the determination of items of expense that may be incurred or paid and the limitation of the amount of the items of expense to prevent the proceeds from the activity permitted from being diverted to noncharitable, noneducational, nonreligious, or profit-making organizations, individuals or groups;
- (3) the immediate revocation of permits if this chapter or regulations issued under it are violated;
- (4) the requiring of detailed, sworn, financial reports of operations from permittees including detailed statements of receipts and payments;
- (5) the investigation of permittees and their employees, including the fingerprinting of those permittees and employees whom the commissioner considers it advisable to fingerprint;
- (6) exclusion from participation as a permittee or employee of a permittee of any person convicted of a felony, a crime involving moral turpitude, or violation of a municipal, state, or federal gambling law;
- (7) the method and manner of conducting activity and awarding of prizes or awards, and the equipment that may be used;
- (8) the number of activities that may be held, operated, or conducted under a permit during a specified period;
- (9) a method of accounting for receipts and disbursements including the keeping of records and requirements for the separate banking of all receipts, and payments by check only;
- (10) the disposition of funds in possession of a permittee at the time a permit is surrendered, revoked or invalidated;
- (11) restrictions on the participation by employees of the Department of Fish and Game in salmon classics;

(12) other matters the commissioner considers necessary to carry out this chapter or protect the best interest of the public. (§ 4 ch 27 SLA 1960; am § 1 ch 94 SLA 1986)

Effect of amendments. — The 1986 amendment in the introductory language deleted ", no later than September 7, 1960," preceding "regulations necessary." Designated former paragraph (11) as present paragraph (12), added present paragraph (11) and inserted a comma following "revoked" in paragraph (10).

Article 2. Licenses and Permits.

<p>Section 100. Commissioner of revenue may issue permits</p>	<p>Section 180. Limitations on authorized activity permits</p>
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Sec. 05.15.100. Commissioner of revenue may issue permits.

(a) The commissioner of revenue may issue a permit to a municipality or qualified organization. The permit gives the municipality or organization the privilege of conducting bingo, raffles and lotteries, ice classics, rain classics, goose classics, mercury classics, salmon classics, dog mushers' contests, fish derbies, and contests of skill.

(b) The commissioner of revenue also may issue a permit giving a municipality or qualified organization the privilege of conducting an activity involving the use of playing cards, dice, and numbers wheels. Each year, a municipality or qualified organization may apply for a permit under this subsection for either a single event lasting no more than three consecutive days, or for no more than three events lasting no more than one day each. (§ 1 a ch 27 SLA 1960; am § 1 ch 66 SLA 1976; am § 2 ch 27 SLA 1982; am § 2 ch 59 SLA 1983; am § 1 ch 93 SLA 1986; am § 2 ch 94 SLA 1986)

Effect of amendments. — The first amendment inserted "goose classics, mercury classics," in subsection (a) and inserted a comma following "derbies." The second 1986 amendment in subsection (a) inserted "salmon classics," in the second sentence.

Sec. 05.15.180. Limitations on authorized activity. (a) Except as provided in AS 05.15.100(b), this chapter does not authorize the use of playing cards, dice, roulette wheels, coin-operated instruments or machines, or other objects or instruments used, designed, or intended primarily for gaming or gambling or any other method or implement not expressly authorized by the commissioner.

(b) With the exception of raffles, lotteries, rain classics, goose classics, mercury classics, salmon classics, and other activities authorized under AS 05.15.100(b), an activity may not be licensed under this chapter unless it existed in the state in substantially the same form and was conducted in substantially the same manner before January 1, 1959.

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

- (1) cash prizes may not be awarded;
- (2) only money substitutes such as chips or scrip may be used by a player in the activity;
- (3) the money substitutes may be exchanged only for prizes other than money and may not be otherwise exchanged or sold; and
- (4) additional limitations may be established by the commissioner of revenue under adopted regulations. (§ 2 ch 27 SLA 1960; am § 3 ch 66 SLA 1976; am §§ 5, 6 ch 59 SLA 1983; am § 2 ch 93 SLA 1986; am § 3 ch 94 SLA 1986)

Effect of amendments. — The first 1986 amendment inserted "goose classics, mercury classics." in subsection (b). The second 1986 amendment in subsection (b) inserted "salmon classics," and "not" preceding "be licensed" and substituted "an" for "no."

Article 3. General Provisions.

Section 210. Definitions

Sec. 05.15.210. Definitions. In this chapter

- (1) "bingo" means a game of chance of, and restricted to, the selling of rights to participate, and the awarding of prizes, in the specific kind of game of chance sometimes known as bingo or lotto, played with cards bearing numbers or other designations, five or more in one line, the holder covering numbers when objects similarly numbered are drawn from a receptacle, and the game being won by the person who first covers a previously designated arrangement of numbers on the card;
- (2) "charitable organization" means an organization, not for pecuniary profit, that is operated for the relief of poverty, distress, or other condition of public concern in the state, and that has been so engaged for five years before applying for a permit under this chapter;
- (3) "civic or service organization" means any branch or lodge or chapter of a national or state organization that is a civic or service organization, not for pecuniary profit, and authorized by its written constitution, charter, or articles of incorporation, or bylaws to engage in a fraternal, civic or service purpose in the state and that has been so engaged for five years before applying for a license under this chapter;
- (4) "contest of skill" means a contest or game in which prizes are awarded for the demonstration of human skills in marksmanship, races, and other athletic events;
- (5) "dog mushers' association" means a civic, service or charitable organization in the state, not for pecuniary profit, formed exclusively

to promote interest in the breeding and training of dog teams for work or recreational and racing purposes and which has been in existence for five years before applying for a permit under this chapter, but does not include an organization formed or operated for gaming or gambling purposes;

(6) "dog mushers' contest" means a contest in which prizes are awarded for the correct guess of the racing time of a dog team or of team position in the race, including prizes to the race contestants;

(7) "educational organization" means a civic, service or charitable organization in the state, not for pecuniary profit, whose primary purpose is educational in nature and designed to develop the capabilities of individuals by instruction and which has been in existence for five years before applying for a license under this chapter;

(8) "fishing-derby association" means a civic, service or charitable organization in the state, not for pecuniary profit, whose primary purpose is to promote interest in fishing for recreational purposes and which has been in existence for five years before applying for a permit under this chapter, but does not include an organization formed or operated for gaming or gambling purposes;

(9) "fish derby" means a contest in which prizes are awarded for catching fish;

(10) "fraternal organization" means a civic, service or charitable organization in the state, except a college and high school fraternity, not for pecuniary profit, that is a branch or lodge or chapter, of a national or state organization and exists for the common business, brotherhood, or other interest of its members and that has so existed for five years before applying for a license;

(11) "goose classic" means a game of chance where a prize of money is awarded for the closest guess of the time of the arrival of the first goose in spring to Creamer's Field in Fairbanks or to the Kenai River Flats near Kenai and is limited to the goose classics operated and administered by the Fairbanks Montessori Association and by the Kenai Chamber of Commerce;

(12) "gross receipts" means receipts from the sale of shares, tickets or rights connected with participation in any activity permitted under this chapter or the right to participate, including admission, fee or charge, sale of equipment or supplies, and all other miscellaneous receipts;

(13) "ice classic" means a game of chance where a prize of money is awarded for the closest guess of the time the ice moves in a body of water or watercourse in the state and is limited to the Nenana and Chena Ice Pools in the same manner as they were conducted in 1959 and previous years, a Kuskokwim Ice Classic to be operated and administered by Bethel Social Services, Inc., a Kenai River Ice Classic to be operated and administered by the Kenai and Soldotna Rotary Clubs jointly or by either the Kenai Rotary Club or the Soldotna

Rotary Club, and a Yukon River Ice Classic to be operated and administered by the City of Fort Yukon:

(14) "labor organization" means an organization, not for pecuniary profit, constituted wholly or partly to bargain collectively or deal with employers, including the state and its political subdivisions, concerning grievances, terms, or conditions of employment or other mutual aid or protection in connection with employees;

(15) "mercury classic" means a game of chance where a prize of money is awarded for the closest guess of the time the temperature reaches a certain degree and is limited to the mercury classic operated and administered by the Greater Fairbanks Chamber of Commerce;

(16) "municipality" means a political subdivision of the state that is a home rule or general law city or borough or a unified municipality;

(17) "net proceeds" means the gross receipts less expenses, prizes, duties, or charges, fees, and deductions that are specifically authorized under this chapter;

(18) "numbers wheel" means any electronic, mechanical, or other device with numbers or other figures that are selected randomly and used in a game of chance in which the outcome is determined by the number or figure selected by the device; not including games in which a hamster or other animal is placed in an enclosure with several numbered exit holes and the winner is determined by which hole the hamster or other animal exits, or slot machines or other devices that operate by insertion of a coin or other object that may entitle the person operating the machine to receive a prize by strict dependence on the element of chance;

(19) "police or fire department and company" means a civic, service or charitable organization in the state, not for pecuniary profit, established by the state or a political subdivision of the state that has been in existence for five years before applying for a license under this chapter;

(20) "political organization" means an organization or club organized under or formally affiliated with a political party as defined in AS 15.60.010;

(21) "qualified organization" means a bona fide civic or service organization or a bona fide religious, charitable, fraternal, labor, political, or educational organization, police or fire department company, dog mushers' association, outboard motor association, or fishing-derby or nonprofit trade association in the state, that operates without profits to its members and that has been in existence continually for a period of five years immediately before applying for a license; the organization may be a firm, corporation, company, association or partnership;

(22) "raffle and lottery" means the selling of rights to participate, and the awarding of prizes, in the specified kinds of games of chance sometimes known as pull-tab games in which the price of each chance

is \$2 or less and in the specified kind of game of chance sometimes known as a raffle or lottery, conducted by the drawing for prizes by chance:

(23) "rain classic" means a game of chance in that a prize is awarded for the closest guess of the amount of precipitation which is recorded at a certain location during a certain length of time:

(24) "religious organization" means an organization, church, body of communicants, or group, not for pecuniary profit, gathered in common membership for mutual support and edification in piety, worship and religious observances, or a society, not for pecuniary profit, of individuals united for religious purposes at a definite place and that has been so gathered or united for five years before applying for a license and is recognized as a religious organization under the federal income tax laws and the selective service law:

(25) "salmon classic" means a game of chance, to be operated and administered by the United Fisherman of Alaska, in which a prize of money is awarded for the closest guess of the total number of salmon harvested commercially statewide as determined by the Department of Fish and Game, during a certain period of time;

(26) "veterans organization" means a civic, service or charitable organization in the state, or a branch or lodge or chapter of a national or state organization in the state, not for pecuniary profit, the membership of which consists of individuals who were members of the armed services or forces of the United States, and which has been in existence for five years before applying for a license under this chapter. (§ 1 ch 27 SLA 1960; am §§ 4, 5 ch 66 SLA 1976; am §§ 6-8 ch 27 SLA 1982; am § 8 ch 59 SLA 1983; am § 1 ch 27 SLA 1985; am §§ 3, 4 ch 93 SLA 1986; am § 4 ch 94 SLA 1986)

Revisor's notes. — Reorganized in 1983 and 1986 to alphabetize the defined terms.

Effect of amendments. — The first 1986 amendment in paragraph (13) deleted "and" preceding "a Kuskokwim Ice

Classic" and added the language beginning ", a Kenai River Ice Classic" at the end of the paragraph and added paragraphs (11) and (15).

The second 1986 amendment added paragraph (25).

Chapter 20. Recreational Devices.

Section

40. Personnel to inspect devices

Sec. 05.20.040. Personnel to inspect devices. The department shall designate a person qualified in experience and training as the inspector of devices. The department may employ additional employees as are necessary to administer this chapter. The inspector and the employees may be hired on a temporary basis or borrowed from other state departments or political subdivisions of the state, or the

department may contract with individuals or firms for the inspecting service on an independent basis. The department shall prescribe the salary or other remuneration for this service. Contracting under this section is governed by AS 36.30 (State Procurement Code), § 3 ch 109 SLA 1960; am § 4 ch 106 SLA 1986)

Effect of amendments. — The 1986 amendment, effective January 1, 1988, added the last sentence.

Chapter 35 Sports Facilities Grants.

Section

100. Alaska Winter Olympics account

Sec. 05.35.100. Alaska Winter Olympics account. (a) There is created in the general fund an Alaska Winter Olympics account. The Department of Revenue shall prepare the permanent fund dividend application to allow applicants to designate that \$5 of the dividend be subtracted from their check and contributed to the Alaska Winter Olympics account. Permanent fund dividend contributions shall be deposited in the Alaska Winter Olympics account. The Department of Revenue may use money in the Alaska Winter Olympics account to pay administrative costs incurred under this section.

(b) The Alaska Winter Olympics account shall be held in trust by the Department of Administration for distribution to the official Olympic Organizing Committee in Alaska to be used to develop facilities for Winter Olympic training and competition and to attract the Winter Olympics to Alaska. (§ 1 ch 45 SLA 1985; am § 2 ch 6 SLA 1986)

Repeal of section — Section 2, ch. 6, SLA 1986 repeals this section. Section 3(a), ch. 6, SLA 1986 makes the repeal effective as follows:

(1) on January 1, 1991, if the International Olympic Committee has announced the cities selected to host the 1992 and 1996 Winter Olympic Games, and if Anchorage, Alaska is not a city selected;

(2) on January 1, 1992, if the Interna-

tional Olympic Committee selects Anchorage, Alaska to host the 1992 Olympic;

(3) on January 1, 1996, if the International Olympic Committee selects Anchorage, Alaska to host the 1996 Olympics.

Editor's notes. — Section 3(b), ch. 6, SLA 1986 provides that "money deposited in the Alaska Winter Olympics account lapses into the general fund" on the effective date of the repeal of this section.

Collateral references. — 27 C.J.S., Disorderly Houses, §§ 1 to 18; 73 C.J.S., Prostitution, §§ 6, 7.

Constitutionality of statute conferring on chancery courts power to abate bawdyhouses as nuisances, 5 ALR 1474; 22 ALR 542; 75 ALR 1298.

Number of females who reside in house or resort thereto for immoral purposes as

affecting disorderly character thereof, 12 ALR 529.

Entrapment to commit offense as to house of prostitution or as to pandering, 52 ALR2d 1194.

Construction of provision of pandering statute as to placing a female in charge or custody of another, 54 ALR2d 1178.

Sec. 11.66.140. Corroboration of certain testimony not required. In a prosecution under AS 11.66.110 — 11.66.130, it is not necessary that the testimony of the person whose prostitution is alleged to have been compelled or promoted be corroborated by the testimony of any other witness or by documentary or other types of evidence. (§ 8 ch 166 SLA 1978).

NOTES TO DECISIONS

For case construing former rule as to corroboration of prostitute's testimony, see *Johnson v. State*, Sup. Ct. Op. No. 832 (File No. 1338), 501 P.2d 762 (1972).

For cases construing former statute

providing that common fame was competent evidence in a prosecution for keeping a bawdyhouse, see *Botts v. United States*, 155 F. 50 (9th Cir. 1907); *Hall v. United States*, 155 F. 52 (9th Cir. 1907).

Sec. 11.66.150. Definitions. In AS 11.66.100 — 11.66.150, unless the context requires otherwise,

(1) "place of prostitution" means any place where a person engages in sexual conduct in return for a fee;

(2) "prostitution enterprise" means an arrangement in which two or more persons are organized to render sexual conduct in return for a fee;

(3) "sexual conduct" means genital or anal intercourse, cunnilingus, fellatio, or masturbation of one person by another person. (§ 8 ch 166 SLA 1978)

Cross references. — For definition of terms used in this title, see AS 11.81.900.

Article 2. Gambling Offenses.

Section	Section
200. Gambling	240. Possession of gambling records in the second degree
210. Promoting gambling in the first degree	250. Affirmative defenses
220. Promoting gambling in the second degree	260. Possession of a gambling device
230. Possession of gambling records in the first degree	270. Forfeiture
	280. Definitions

NOTES TO DECISIONS

For case construing former statute prohibiting dealing or conducting gambling game, see *United States v. Frodenberg*, 8 Alaska 251 (1930).

Sec. 11.66.220. Promoting gambling in the second degree. (a) A person commits the crime of promoting gambling in the second degree if the person promotes or profits from unlawful gambling.

(b) Promoting gambling in the second degree is a class A misdemeanor. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

For case construing former statute prohibiting dealing or conducting gambling game, see *United States v. Frodenberg*, 8 Alaska 251 (1930).

Sec. 11.66.230. Possession of gambling records in the first degree. (a) A person commits the crime of possession of gambling records in the first degree if, with knowledge of its contents or character, the person possesses a gambling record used or intended to be used in the operation or promotion of an unlawful gambling enterprise.

(b) Possession of gambling records in the first degree is a class C felony. (§ 8 ch 166 SLA 1978; am § 24 ch 102 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "used or intended to be" for "of a kind commonly" preceding "used in the" near the middle of subsection (a). report on Chapter 102, SLA 1980 (HCS CSSB 511), see 1980 Senate Journal Supplement, No. 44, May 29, 1980, or 1980 House Journal Supplement, No. 79, May 29, 1980.

Legislative history reports. — For a

Sec. 11.66.240. Possession of gambling records in the second degree. (a) A person commits the crime of possession of gambling records in the second degree if, with knowledge of its contents or character, the person possesses a gambling record.

(b) Possession of gambling records in the second degree is a class A misdemeanor. (§ 8 ch 166 SLA 1978)

Sec. 11.66.250. Affirmative defenses. (a) It is an affirmative defense in a prosecution under AS 11.66.230 that the gambling record was possessed by the defendant solely as a player.

(b) It is an affirmative defense in a prosecution under AS 11.66.230 or 11.66.240 that the gambling record

(1) was not used or intended to be used by the defendant in the operation or promotion of unlawful gambling;

(2) was used or intended to be used by the defendant in a social game. (§ 8 ch 166 SLA 1978)

NOTES TO DECISIONS

Editor's notes. — The cases and opinions cited in the notes below were decided under former AS 11.45.040.

Constitutionality of former statute relating to seizure and destruction of gambling devices. — See *Pin-Ball Mach., Serial No. 2334 v. State, Sup. Ct. Op. No. 96* (File No. 162), 371 P.2d 805 (1962).

Strict construction of former statute. — See *One Cocktail Glass v. State, Sup. Ct. Op. No. 1437* (File No. 2729), 565 P.2d 1265 (1977).

Former section distinguished from narcotics and fish and game forfeiture statutes. — See *One Cocktail Glass v. State, Sup. Ct. Op. No. 1437* (File No. 2729), 565 P.2d 1265 (1977).

As to what constitutes gambling device, see note to AS 11.66.280.

As to forfeiture of money under former law, see *United States v. Three*

Thousand Two Hundred Thirty-Six Dollars, 167 F. Supp. 495 (D. Alaska 1958); *One Cocktail Glass v. State, Sup. Ct. Op. No. 1437* (File No. 2729), 565 P.2d 1265 (1977).

Forfeiture of glassware, beverages, etc., held error. — Forfeiture of glassware, beverages, cigarettes and furniture used to make the gambling establishment a more pleasant and comfortable place for its customers but not used in the gambling game per se, was error. *One Cocktail Glass v. State, Sup. Ct. Op. No. 1437* (File No. 2729), 565 P.2d 1265 (1977).

Procedure under former law. — See *United States v. Three Thousand Two Hundred Thirty-Six Dollars*, 167 F. Supp. 495 (D. Alaska 1958); *State v. Pin-Ball Mach., Serial No. A-2885*, 2 Alaska L.J. No. 2, p. 24 (Feb., 1964).

Sec. 11.66.280. Definitions. In AS 11.66.200 — 11.66.280, unless the context requires otherwise,

(1) "contest of chance" means a contest, game, gaming scheme, or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that the skill of the contestants may also be a factor;

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

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

(B) playing an amusement device that

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

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

(C) an activity authorized by the commissioner of revenue under AS 05.15;

(3) "gambling device" means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of unlawful gambling, whether it consists of gambling between persons or gambling by a person involving the playing of a machine; "gambling device" does not include

permitting the gambling to occur or continue without making an effort to prevent its occurrence or continuation;

(9) "social game" means gambling in a home where no house player, house bank, or house odds exist and where there is no house income from the operation of the game;

(10) "something of value" means any money or property; any token, object, or article exchangeable for money or property; and any form of credit or promise directly or indirectly contemplating transfer of money or property or of an interest in money or property or involving extension of a service, entertainment, or privilege of playing at a game or scheme without charge;

(11) "unlawful" means not specifically authorized by law. (§ 8 ch 166 SLA 1978; am § 9 ch 59 SLA 1983)

Cross references. — For definition of terms used in this title, see AS 11.81.900; for definitions of coin-operated devices, see AS 43.35.090.

Effect of amendments. — The 1983 amendment added paragraph (2)(C).

Opinions of attorney general. — For opinions construing former lottery laws, see 1961 Op. Atty Gen., No. 10; 1962 Op. Atty Gen., Nos. 14, 22; 1967 Op. Atty Gen., No. 8.

NOTES TO DECISIONS

Editor's notes. — Most of the cases cited in the notes below were decided under former AS 11.45.040, 11.60.010, 11.60.020, and 11.60.170.

The intrinsic nature of gambling is the payment of a price for a chance to obtain that which one seeks but which one could not obtain unless the element of chance were present and unless one had paid a price for the availability of the chance. *State v. Pinball Machs.*, Sup. Ct. Op. No. 298 (File No. 529), 404 P.2d 923 (1965).

Lotteries constitute a distinct form of gambling, prohibited by Alaska statute. *Morrow v. State*, Sup. Ct. Op. No. 891 (File No. 1599), 511 P.2d 127 (1973).

Borough's land sale lottery did not violate Alaska's statute prohibiting unlawful gambling. *Gilman v. Martin*, Sup. Ct. Op. No. 2672 (File No. 5937), 662 P.2d 120 (1983).

What constitutes lottery. — See *Morrow v. State*, Sup. Ct. Op. No. 891 (File No. 1599), 511 P.2d 127 (1973).

In determining whether chance is present, courts generally employ one of two guides: (1) The pure chance doctrine under which a scheme is considered a lottery when a person's judgment plays no part in the selection and award of the prize, and (2) the dominant factor doctrine, under which a scheme constitutes a lottery

where chance dominates the distribution of prizes, even though such a distribution is affected to some degree by the exercise of skill or judgment. *Morrow v. State*, Sup. Ct. Op. No. 891 (File No. 1599), 511 P.2d 127 (1973).

Dominant factor doctrine preferred. — The sounder approach is to determine the character of the scheme under the dominant factor rule. *Morrow v. State*, Sup. Ct. Op. No. 891 (File No. 1599), 511 P.2d 127 (1973).

A game should be classified as one of skill or chance depending on the dominating element, not on the presence or absence of a small element of skill, which would validate the game under the pure chance doctrine. *Morrow v. State*, Sup. Ct. Op. No. 891 (File No. 1599), 511 P.2d 127 (1973).

Requisite aspects to a scheme where skill predominates over chance. — See *Morrow v. State*, Sup. Ct. Op. No. 891 (File No. 1599), 511 P.2d 127 (1973).

"Gambling implement". — A gambling device, or "gambling implement" has been defined as any tangible means, instrument or contrivance by which money may be lost or won as distinguished from the game itself, and the device need not be intended solely for gambling purposes. *Pin-Ball Mach.*, Serial No. 2334 v. State, Sup. Ct. Op. No. 86 (File No. 162), 371 P.2d 805 (1962).

statutes or ordinances in relation to gifts or prizes or gift enterprises. 39 ALR 1035.

Scheme for advertising or stimulating legitimate business, as a lottery. 48 ALR 1115; 57 ALR 424; 103 ALR 886; 109 ALR 709; 113 ALR 1121.

Coin-operated or slot machine as lottery. 101 ALR 1126.

Numbers game or policy game as a lot-

tery. 105 ALR 305.

Slot machines within prohibitory statute or ordinance as limited to gambling device. 132 ALR 1004.

Lottery as game of chance. 135 ALR 168.

Entrapment to commit offense with respect to gambling or lotteries. 31 ALR2d 1212.

Chapter 67. Reports and Records.

Article 1. Reports of Injuries to Children Caused by Abuse or Neglect.

[Repealed, § 6 ch 100 SLA 1971. For law on child protection, see AS 47.17.]

Chapter 70. Miscellaneous Provisions.

Secs. 11.70.010 — 11.70.030. Intent to defraud; use of evidence by person on charge of perjury; intoxication as defense. [Repealed, § 21, ch 166, SLA 1978. For current law, see AS 11.46.990(4), 11.81.630.]

Sec. 11.70.040. Blind persons with guide dogs in public places. [Repealed, § 1 ch 19 SLA 1972.]

Sec. 11.70.050. [Renumbered as AS 05.12.010.]

Chapter 71. Controlled Substances.

Article

1. Offenses Relating to Controlled Substances (§§ 11.71.010 — 11.71.080)
2. Standards and Schedules (§§ 11.71.100 — 11.71.195)
3. Miscellaneous Provisions (§§ 11.71.300 — 11.71.360)
4. Definitions (§ 11.71.900)

Cross references. — For legislative purpose, see sec. 1, ch. 45, SLA 1982 in the Temporary and Special Acts; for transition

provisions, see sec. 23, 45, SLA 1982 in the Temporary and Special Acts.

NOTES TO DECISIONS

Cited in *Pougas v. State*, Ct. App. Op. No. 224 (File Nos. 6762, 7101). 658 P.2d 796 (1983).

SUPPLEMENT

§ 11.66.120

ALASKA STATUTES SUPPLEMENT

§ 11.66.280

Sec. 11.66.120. Promoting prostitution in the second degree.

NOTES TO DECISIONS

Promoting prostitution and managing prostitution enterprise. — Punishment for inducing or causing a person under the age of 16 to engage in prostitution (AS 11.66.110(a)(2)) and for managing, supervising, controlling or owning a prostitution enterprise (AS 11.66.120(a)(1))

did not violate double jeopardy since the offenses proscribed by the two statutes involve different intents and different conducts and differing societal interests are furthered. Bell v. State, Ct. App. Op. No. 288 (File No. 5821), 668 P.2d 829 (1983).

Sec. 11.66.130. Promoting prostitution in the third degree.

NOTES TO DECISIONS

Quoted in Bell v. State, Ct. App. Op. No. 288 (File No. 5821), 668 P.2d 829 (1983).

Sec. 11.66.140. Corroboration of certain testimony not required.

NOTES TO DECISIONS

Cited in Bell v. State, Ct. App. Op. No. 288 (File No. 5821), 668 P.2d 829 (1983).

Sec. 11.66.150. Definitions.

NOTES TO DECISIONS

Quoted in Bell v. State, Ct. App. Op. No. 288 (File No. 5821), 668 P.2d 829 (1983).

Article 2. Gambling Offenses.

Section
280. Definitions

Sec. 11.66.280. Definitions. In AS 11.66.200 — 11.66.280, unless the context requires otherwise,

(1) "contest of chance" means a contest, game, gaming scheme, or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that the skill of the contestants may also be a factor;

(2) "gambling" means that a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under the person's control or influence, upon an agreement or understanding that that person or someone else will receive some-

thing of value in the event of a certain outcome; "gambling" does not include

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

(B) playing an amusement device that

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

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

(C) an activity authorized by the commissioner of revenue under AS 05.15;

(3) "gambling device" means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of unlawful gambling, whether it consists of gambling between persons or gambling by a person involving the playing of a machine; "gambling device" does not include

(A) lottery tickets, policy slips, or other items used in the playing phases of lottery or policy schemes; or

(B) an amusement device as described in (2)(B) of this section;

(4) "gambling enterprise" means a gambling business that

(A) includes five or more persons who conduct, finance, manage, supervise, direct, or own all or part of the business;

(B) has been or remains in substantially continuous operation for a period in excess of 30 days or has a gross income of \$2,000 or more in any single day; and

(C) is not a municipality or a qualified organization under AS 05.15.210, except that, for purposes of this paragraph, no application for a license under AS 05.15 is required to be considered a qualified organization;

(5) "gambling record" means any writing or paper of a kind commonly used in the operation or promotion of unlawful gambling and includes lottery tickets, policy slips, or other writings or papers used in the playing phases of lottery or policy schemes;

(6) "player" means a person who engages in gambling solely as a contestant or bettor, believing that the risk of losing and the chances of winning are the same for all participants except for the advantages of skill and luck, without receiving or becoming entitled to receive any profit from gambling other than personal gambling winnings and without otherwise rendering any material assistance to the establishment, conduct, or operation of the particular gambling activity, except that, for purposes of this paragraph, a person who gambles at a social game on equal terms with the other participants does not "otherwise render material assistance" to the establishment, conduct, or opera-

tion by performing, without fee or remuneration, acts directed towards the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises for the game, or supplying cards or other equipment used in the game;

(7) "profits from gambling" means that a person, acting other than as a player, accepts or receives money or other property under an agreement or understanding with another person by which the person participates or is to participate in the proceeds of gambling;

(8) "promoting gambling" means that a person, acting other than as a player, engages in conduct that materially aids any form of gambling; conduct of this nature includes

(A) conduct directed toward the

(i) creation or establishment of the particular gambling activity or acquisition or maintenance of premises, paraphernalia, equipment, or apparatus used in the gambling;

(ii) conduct of the playing phases of gambling; or

(iii) arrangement of the financial or recording phase of gambling or toward any other phase of its operation; or

(B) having control or right of control over premises that are used with the defendant's knowledge for purposes of gambling and permitting the gambling to occur or continue without making an effort to prevent its occurrence or continuation;

(9) "social game" means gambling in a home where no house player, house bank, or house odds exist and where there is no house income from the operation of the game;

(10) "something of value" means any money or property; any token, object, or article exchangeable for money or property; and any form of credit or promise directly or indirectly contemplating transfer of money or property or of an interest in money or property or involving extension of a service, entertainment, or privilege of playing at a game or scheme without charge;

(11) "unlawful" means not specifically authorized by law. (§ 8 ch 166 SLA 1978; am § 9 ch 59 SLA 1983; am § 20 ch 14 SLA 1987)

Effect of amendments. — The 1987 amendment, effective May 30, 1987, in paragraph (4) substituted "that" for "which" in the introductory language and

in subparagraph (C) inserted "municipality or a" and substituted "AS 05.15.210" for "AS 05.15.210(15)" and "AS 05.15" for "AS 05.15.210(15)."

Sec. 29.26.360. Application. AS 29.26.250 — 29.26.360 apply to home rule and general law municipalities. (§ 9 ch 74 SLA 1985)

Chapter 28. Elections.

[Repealed, § 88 ch 74 SLA 1985.]

Chapter 33. Areawide Borough Powers and Duties.

[Repealed, § 88 ch 74 SLA 1985.]

Chapter 35. Municipal Powers and Duties.

Article

- 1. General Powers (§§ 29.35.010 — 29.35.145)
- 2. Mandatory Areawide Powers (§§ 29.35.150 — 29.35.180)
- 3. Additional Powers (§§ 29.35.200 — 29.35.220)
- 4. City Powers (§§ 29.35.250 — 29.35.260)
- 5. Acquisition of Additional Powers (§§ 29.35.300 — 29.35.350)
- 6. Construction of Powers (§§ 29.35.400 — 29.35.420)
- 7. Service Areas (§§ 29.35.450 — 29.35.490)
- 8. Hazardous Materials and Hazardous Wastes (§§ 29.35.500 — 29.35.590)

Article 1. General Powers.

Section	Section
10. General powers	90. Municipal property
20. Extraterritorial jurisdiction	100. Budget and capital program
30. Eminent domain	110. Expenditure of borough revenues
40. Emergency disaster powers	120. Post audit
50. Garbage and solid waste services	130. Emergency services communications centers
60. Franchises and permits	140. Regulation of transportation carriers
70. Public utilities	145. Regulation of firearms
80. Alcoholic beverages	

Sec. 29.35.010. General powers. All municipalities have the following general powers, subject to other provisions of law:

- (1) to establish and prescribe a salary for an elected or appointed municipal official or employee;
- (2) to combine two or more appointive or administrative offices;
- (3) to establish and prescribe the functions of a municipal department, office, or agency;
- (4) to require periodic and special reports from a municipal department to be submitted through the mayor;
- (5) to investigate an affair of the municipality and make inquiries into the conduct of a municipal department;
- (6) to levy a tax or special assessment, and impose a lien for its enforcement;

(7) to enforce an ordinance and to prescribe a penalty for violation of an ordinance;

(8) to acquire, manage, control, use, and dispose of real and personal property, whether the property is situated inside or outside the municipal boundaries; this power includes the power of a borough to expend, for any purpose authorized by law, money received from the disposal of land in a service area established under AS 29.35.450;

(9) to expend money for a community purpose, facility, or service for the good of the municipality to the extent the municipality is otherwise authorized by law to exercise the power necessary to accomplish the purpose or provide the facility or service;

(10) to regulate the operation and use of a municipal right-of-way, facility, or service;

(11) to borrow money and issue evidences of indebtedness;

(12) to acquire membership in an organization that promotes legislation for the good of the municipality;

(13) to enter into an agreement, including an agreement for cooperative or joint administration of any function or power with a municipality, the state, or the United States;

(14) to sue and be sued. (§ 10 ch 74 SLA 1985)

NOTES TO DECISIONS

The rule of strict construction did not apply to the mode adopted by the corporation to carry into effect powers expressly or plainly granted under a former, similar provision. The power having been granted, the municipal corporation had the power to exercise such power in any reasonable way it saw fit. *Femmer v. City of Juneau*, 9 Alaska 175 (1937), aff'd, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938).

Taxing authority consistent with liberal construction requirements. — The broad grant of taxing authority, limited only by other provisions of law, is consistent with the second sentence of Alas. Const., art. X, § 1, which requires that a "liberal construction shall be given to the powers of local government units." *Liberati v. Bristol Bay Borough*, Sup. Ct.

Op. No. 1735 (File No. 3365), 584 P.2d 1115 (1978), decided under former, similar law.

Imposition of civil penalties. — The power of a municipality to impose a civil penalty for failure to timely file or pay sales taxes is granted primarily because Alaska Const., art. X, § 1, requires that a liberal construction be given the powers of municipalities. *Bookey v. Kenai Peninsula Borough*, Sup. Ct. Op. No. 2199 (File No. 4878), 618 P.2d 567 (1980), decided under former, similar law.

There is no general prohibition against like municipal and state taxes. *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No. 1735 (File No. 3365), 584 P.2d 1115 (1978), decided under former, similar law.

Collateral references. — 56 Am. Jur. 2d, *Municipal Corporations, Counties, and Other Political Subdivisions*, §§ 193-230.

Estoppel as to claim against municipality. 1 ALR2d 338.

Contributory negligence as defense in action by municipality. 1 ALR2d 827.

Granting or taking of lease by municipi-

pality as within authorization of purchase or acquisition thereof. 11 ALR2d 168.

Compromise of claim, power of city as to. 15 ALR2d 1359.

Death action against municipal corporation as subject to statute of limitations governing wrongful death actions or that governing actions against a municipality

for injury to person or property. 33 ALR2d 1068.

Mandamus, liability of municipal corporation for damages to successful plaintiff or relator in. 73 ALR2d 930; 34 ALR4th 457.

Waiver of, or estoppel to rely upon, contractual limitation of time for bringing action against municipality or other political subdivision. 81 ALR2d 1039.

Pledging parking meter revenues as unlawful relinquishment of governmental power. 83 ALR2d 649.

Revocation, prior to execution of formal written contract, of vote for decision of public body awarding contract to bidder. 3 ALR3d 864.

Power of municipal corporation to submit to arbitration. 20 ALR3d 569.

Right of municipal corporation to recover back from contractor payments made under contract violating competitive bidding statute. 33 ALR3d 397.

Liability of municipality on quasi contract for value of property or work fur-

nished without compliance with bidding requirements. 33 ALR3d 1164.

Power of eminent domain as between state and subdivision or agency thereof, or as between different subdivisions or agencies themselves. 35 ALR3d 1293.

Validity of "freezing" ordinances or statutes preventing prospective condemnation from improving, or otherwise changing, the condition of his property. 36 ALR3d 751.

Validity and construction of statute or ordinance providing for repair or destruction of residential building by public authorities at owner's expense. 43 ALR3d 916.

Right of governmental entity to maintain action for defamation. 45 ALR3d 1315.

Power of municipal corporation to lease or sublet property owned or leased by it. 47 ALR3d 19.

Recovery of exemplary or punitive damages from municipal corporation. 1 ALR4th 448.

Sec. 29.35.020. Extraterritorial jurisdiction. (a) To the extent a municipality is otherwise authorized by law to exercise the power necessary to provide the facility or service, the municipality may provide parks, playgrounds, cemeteries, emergency medical services, solid and septic waste disposal, utility services, airports, streets (including ice roads), trails, transportation facilities, wharves, harbors and other marine facilities outside its boundaries and may regulate their use and operation to the extent that the jurisdiction in which they are located does not regulate them. A regulation adopted under this section must state that it applies outside the municipality.

(b) A municipality may adopt an ordinance to protect its water supply and watershed, and may enforce the ordinance outside its boundaries. Before this power may be exercised inside the boundaries of another municipality, the approval of the other municipality must be given by ordinance.

(c) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

NOTES TO DECISIONS

Power granted does not deprive city of other powers. — There was no reason that the grant to the council of power to extend roads and trails from its limits to certain points without its limits under a former, similar provision in any manner deprived the council of any of the implied

or necessary powers which it would have enjoyed, in the absence of any such express grant in the charter. *Town of Ketchikan v. Zimmerman*, 4 Alaska 336 (1911).

If authority had not been expressly given by a former, similar provision for a

city to purchase land outside of the incorporated limits and to divert a stream beyond its limits and prevent it from reach-

ing the incorporated limits, such authority was necessarily implied. *Town of Seward v. Margules*, 9 Alaska 354 (1938).

Collateral references. — 36 Am. Jur. 2d, *Municipal Corporations, Counties, and Other Political Subdivisions*, §§ 227, 228, 436, 560 et seq.

62 C.J.S., *Municipal Corporations*, § 141; 63 C.J.S., *Municipal Corporations*, §§ 1050-1052.

Standing of municipal corporation or other governmental body to attack zoning of land lying outside its borders. 49 ALR3d 1126.

Sec. 29.35.030. Eminent domain. (a) A municipality may, only within its boundaries, exercise the powers of eminent domain and declaration of taking in the performance of a power or function of the municipality under the procedures set out in AS 09.55.250 — 09.55.460. In the case of a second class city, the exercise of the power of eminent domain or declaration of taking must be by ordinance that is submitted to the voters at the next general election or at a special election called for that purpose. A majority of the votes on the question is required for approval of the ordinance.

(b) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

Collateral references. — Cost of substitute facilities as measure of compensation paid to state or municipality for condemnation of public property. 40 ALR3d 143.

Consideration of fact that land owner's remaining land will be subject to special assessment in fixing severance damages. 59 ALR3d 534.

Sec. 29.35.040. Emergency disaster powers. (a) A municipality that is wholly or partially in an area that is declared by the President or governor to be a disaster area may participate in and provide for housing, urban renewal, and redevelopment in the same manner as a home rule city. The exercise of these powers by a borough shall be on a nonareawide basis, except a borough may exercise the powers transferred to it by a city as provided by AS 29.35.310.

(b) Powers granted by this section must be initiated within a period of not more than five years after the date of declaration of a natural disaster by the President or governor, but these powers may be extended for an additional period of not more than three years. (§ 10 ch 74 SLA 1985)

Sec. 29.35.050. Garbage and solid waste services. (a) A municipality may be ordinance

(1) provide for the establishment, maintenance, and operation of a system of garbage and solid waste collection and disposal for the entire municipality, or for districts or portions of it;

(2) require all persons in the municipality or district to use the system and to dispose of their garbage and solid waste as provided in the ordinance;

(3) award contracts for collection and disposal, or provide for the collection and disposal of garbage and solid waste by municipal officials and employees;

(4) pay for garbage and solid waste collection and disposal from available money;

(5) require property owners or occupants of premises to use the garbage and solid waste collection and disposal system provided by the municipality;

(6) fix charges against the property owners or occupants of premises for the collection and disposal; and

(7) provide penalties for violations of the ordinances.

(b) The governing body of a municipality may not prohibit a person holding a valid certificate from the Alaska Public Utilities Commission from continuing to collect and dispose of garbage, refuse, trash, waste material, or provide other related services in an area in the municipality if the certificate authorizes the collection and disposal of garbage, refuse, trash, or other waste material and providing of other services in the area, and the certificate was originally issued before the municipality provided similar services. A municipality may not provide for a garbage, refuse, trash, or other waste material collection and disposal service in an area to the extent it lies in an area granted to a garbage, refuse, trash, or other waste material carrier by a certificate issued by the Alaska Public Utilities Commission to the carrier until it has purchased the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected, at fair market value. A municipality may exercise the right of eminent domain to acquire the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected.

(c) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 140 et seq. 62 C.J.S., Municipal Corporations, §§ 279, 657.

Liability of municipal corporation for damages for maintenance of sewer disposal plant as nuisance. 40 ALR2d 1198. Municipal liability for maintenance of public dump as nuisance. 52 ALR2d 1134.

Sec. 29.35.060. Franchises and permits. (a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may grant franchises, including exclusive franchise privileges, to a person, corporation, organization, or utility not certificated by the Alaska Public Utilities Commission and may permit the

use of streets and other public places by the franchise holder under regulations prescribed by ordinance.

(b) Unless the grant is made on a competitive basis, the grant of an exclusive right to use a public street or right-of-way for more than five years to a utility or a transportation system not certificated by the Alaska Public Utilities Commission shall be valid only if approved by a majority of the voters at an election.

(c) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions § 140 et seq. 64 C.J.S., Municipal Corporations, 1726. Motive of council passing ordinance as to franchise as affecting validity thereof. 32 ALR 1525. Forfeiture of street railway franchise for breach of condition. 34 ALR 1420. Municipality's liability in damages for refusal to grant franchise. 37 ALR2d 694.

Sec. 29.35.070. Public utilities. (a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate, fix, establish, and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility that it is not subject to regulation under AS 42.05 unless that utility is exempted from regulation under AS 42.05.711(a) or (d) — (k).

(b) A municipality may provide for a reasonable deposit for meters and service to be given if interest is paid on the deposit.

(c) Unless the utility is owned by the municipality, all rates, charges, and regulations established under this section shall be established by ordinance and shall be reasonable and permit a fair return on invested capital.

(d) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

NOTES TO DECISIONS

All the operator of a public utility was entitled to was a reasonable return on his net capital investment under a former, similar provision, represented by property actually used and useful in the public service, and then only provided that his operation was efficient and economical. *Pichotta v. City of Skagway*, 12 Alaska 42, 78 F. Supp. 999 (D. Alaska 1948).

Meaning of "invested capital". — "Invested capital," as used in a former, similar provision, meant the initial investment, regardless of subsequent

changes in ownership, plus capital additions and minus accrued depreciation. *Pichotta v. City of Skagway*, 12 Alaska 42, 78 F. Supp. 999 (D. Alaska 1948).

The term "invested capital" as used in a former, similar provision should not have been construed to mean fair value, nor was the utility entitled to the benefit of any appreciation in value, nor should the term have been construed to mean that which was paid for a utility by the last purchaser. *Pichotta v. City of Skagway*, 12 Alaska 42, 78 F. Supp. 999 (D. Alaska 1948).

~~Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 567 et seq. 62 C.J.S., Municipal Corporations, § 292; 63 C.J.S., Municipal Corporations, § 979. Discrimination between property within and that outside municipality or other governmental district as to public service or utility rates. 4 ALR2d 595. Variations of utility rates based on flat and meter rates. 40 ALR2d 1331.~~

Sec. 29.35.080. Alcoholic beverages. (a) A municipality may regulate the possession, barter, sale, importation, and consumption of alcoholic beverages in accordance with AS 04.11.480 — 04.11.506 and AS 04.21.010.

(b) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985; am § 17 ch 80 SLA 1986)

Effect of amendments. — The 1986 amendment in subsection (a) inserted "possession."

Sec. 29.35.090. Municipal property. The governing body shall by ordinance establish a formal procedure for acquisition and disposal of land and interests in land by the municipality. (§ 10 ch 74 SLA 1985)

Sec. 29.35.100. Budget and capital program. (a) The governing body shall establish the manner for the preparation and submission of the budget and capital program. After a public hearing, the governing body may approve the budget with or without amendments, and shall appropriate the money required for the approved budget.

(b) The governing body may make supplemental and emergency appropriations. Payment may not be authorized or made and an obligation may not be incurred except in accordance with appropriations. (§ 10 ch 74 SLA 1985)

Sec. 29.35.110. Expenditure of borough revenues. Borough revenues received through taxes collected on an areawide basis by the borough may be expended on general administrative costs and on areawide functions only. Borough revenues received through taxes collected on a nonareawide basis may be expended on general administrative costs and functions that render service only to the area outside all cities in the borough. (§ 10 ch 74 SLA 1985)

Sec. 29.35.120. Post audit. (a) The governing body shall provide for an annual independent audit of the accounts and financial transactions of the municipality or, in the case of a second class city, an audit or statement of annual income and expenditures. To make the audit the governing body shall designate a public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the municipi-

pality. Copies of the audit shall be available to the public upon request.

(b) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

Sec. 29.35.130. Emergency services communications centers.

(a) A municipality may establish an emergency services communications center with one or more other municipalities and one or more state, federal, or private agencies that provide emergency service communications to the same geographic area. An emergency services communications center established under this section may be organized and operated as a public nonprofit corporation under AS 10.20.

(b) An emergency services communications center under this section may be governed by a board of directors. A member of a board of directors of an emergency services communications center serves without compensation but is entitled to per diem and travel expenses. If an emergency services communications center is organized as a nonprofit corporation, a member of its board of directors may not be employed by the nonprofit corporation.

(c) An emergency services communications center may assess the feasibility and desirability of providing emergency services communications for the geographic area in which it is located through one central office. An emergency services communications center may

(1) combine or coordinate the existing emergency services communications programs of the participating municipalities and agencies.

(2) operate a dispatch center to receive all requests for emergency services and dispatch those services;

(3) study the need for improvement in the timely delivery of emergency services to residents of the participating municipalities;

(4) hold public hearings to obtain information concerning the timely delivery of emergency services;

(5) apply for and accept federal, state, municipal, and private money, property, or assistance for use in providing the timely delivery of emergency services;

(6) enter into contracts to carry out the provisions of this section;

(7) employ personnel necessary to carry out the provisions of this section.

(d) In this section

(1) "emergency services" means services provided by law enforcement agencies, fire departments, ambulance services, and other organizations that are intended to respond to emergency situations of imminent danger to life or property;

(2) "state agency" means a department, division, or office in the executive branch of state government. (§ 10 ch 74 SLA 1985)

Sec. 29.35.140. Regulation of transportation carriers. A municipality may not regulate an activity regarding transportation of passengers or freight for hire if the regulation conflicts with the regulation of that activity by the Alaska Transportation Commission as the regulation existed on April 1, 1983 under former AS 02.05, former AS 42.07, or former AS 42.10. (§ 10 ch 74 SLA 1985)

Revisor's notes. — This section derived from AS 29.48.036, enacted by § 2, 1983 Initiative Proposal No. 2.

Sec. 29.35.145. Regulation of firearms. (a) A municipality may not, except by ordinance ratified by the voters, restrict the right to own or possess firearms within a residence or transport unloaded firearms.

(b) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

Article 2. Mandatory Areawide Powers.

Section
150. Scope of areawide powers
160. Education

Section
170. Assessment and collection of taxes
180. Land use regulation

Sec. 29.35.150. Scope of areawide powers. A borough shall exercise the powers as specified and in the manner specified in AS 29.35.150 — 29.35.180 on an areawide basis. (§ 10 ch 74 SLA 1985)

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, §§ 193-230.

Sec. 29.35.160. Education. (a) Each borough constitutes a borough school district and establishes, maintains, and operates a system of public schools on an areawide basis as provided in AS 14.14.060. A military reservation in a borough is not part of the borough school district until the military mission is terminated or until inclusion in the borough school district is approved by the Department of Education. However, operation of the military reservation schools by the borough school district may be required by the Department of Education under AS 14.14.110. If the military mission of a military reservation terminates or continued management and control by a regional educational attendance area is disapproved by the Department of Education, operation, management, and control of schools on the military reservation transfers to the borough school district in which the military reservation is located.

(b) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

Opinions of attorney general. — Under a former, similar provision, a newly incorporated borough assumed administrative responsibility for a state-operated school within its boundaries immediately after incorporation. 1963 Op. Att'y Gen. No. 23.

A former, similar provision provided that the organized borough would provide, establish, maintain, and operate the schools within its boundaries. Ownership

of state-operated schools had to be conveyed by the state to the local school district as soon as possible after incorporation. The transfer of direct administration of these schools should have been made shortly after incorporation, prior to the beginning of the next fiscal year, and as quickly as was consistent with continuity of operation and efficient management. 1963 Op. Att'y Gen. No. 23.

NOTES TO DECISIONS

Extent of implied powers regarding education. — Boroughs possess implied powers with regard to education to the extent that they are clearly necessary to the borough's exercise of its express powers in this regard. *Girves v. Kenai Peninsula Borough*, Sup. Ct. Op. No. 1168 (File No. 2016), 536 P.2d 1221 (1975), decided under former, similar law.

Borough was not acting as an agent of the state in furnishing transportation of pupils. — *Kenai Peninsula Borough v. State*, Sup. Ct. Op. No. 1124 (File No. 2092), 532 P.2d 1019 (1975), decided under former, similar law.

While the state did supervise the school transportation service insofar as it related to the funding provided by it and also had certain regulations in effect pertaining to the over-all safety of the transportation system, the actual control of the transportation services was undertaken by the borough which, on its own behalf, entered into the contract with a school bus owner to furnish transportation service for specified routes. *Kenai Peninsula Borough v. State*, Sup. Ct. Op. No. 1124 (File No. 2092), 532 P.2d 1019 (1975), decided under former, similar law.

Sec. 29.35.170. Assessment and collection of taxes. (a) A borough shall assess and collect property, sales, and use taxes that are levied in its boundaries, subject to AS 29.45.

(b) Taxes levied by a city shall be collected by a borough and returned in full to the levying city. This subsection applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

NOTES TO DECISIONS

Limitation on use of real property tax liens. — If the legislature had intended to grant municipalities the authority to impose real property sales tax liens, it would have at least provided that they could collect the sales tax "as provided in" or "by the method set forth in former AS

29.53 (now see AS 29.45), not "subject to" former AS 29.53. In context, this statute is a limitation on the use of real property tax liens, not an extension of them. *Fairbanks N. Star Borough v. Howard*, Sup. Ct. Op. No. 2036 (File No. 4575), 608 P.2d 52 (1980).

Sec. 29.35.180. Land use regulation. (a) A first or second class borough shall provide for planning, platting, and land use regulation in accordance with AS 29.40.

(b) A home rule borough shall provide for planning, platting, and land use regulation. (§ 10 ch 74 SLA 1985)

Article 3. Additional Powers.

Section
200. First class borough powers
210. Second class borough powers

Section
220. Third class borough powers

Collateral references. — 56 Am. Jur. 2d. Municipal Corporations, Counties, and Other Political Subdivisions. § 193 et seq.; 64 Am. Jur. 2d. Public Utilities. §§ 9, 11, 101, 234.

62 C.J.S., Municipal Corporations, §§ 293, 651, 699; 64 C.J.S., Municipal Corporations, §§ 1693, 1696, 1808.

Constitutionality of statute or ordinance for protection of water supply. 72 ALR 673.

Liability of municipalities for pollution of subterranean waters. 39 ALR2d 1305.

Validity and construction of anti-water pollution statutes or ordinances. 32 ALR3d 215.

Sec. 29.35.200. First class borough powers. (a) A first class borough may exercise by ordinance on a nonareawide basis any power not otherwise prohibited by law.

(b) A first class borough may by ordinance exercise the following powers on an areawide basis:

- (1) provide transportation systems;
- (2) provide water pollution control;
- (3) provide air pollution control in accordance with AS 46.03.140 — 46.03.230;
- (4) license day care facilities;
- (5) license, impound, and dispose of animals.

(c) In addition to powers conferred by (b) of this section, a first class borough may, on an areawide basis, exercise a power not otherwise prohibited by law if the power has been acquired in accordance with AS 29.35.300. (§ 10 ch 74 SLA 1985)

Sec. 29.35.210. Second class borough powers. (a) A second class borough may by ordinance exercise the following powers on a nonareawide basis:

- (1) provide transportation systems;
- (2) regulate the offering for sale, exposure for sale, sale, use or explosion of fireworks;
- (3) license, impound, and dispose of animals;
- (4) provide garbage, solid waste, and septic waste collection and disposal;
- (5) provide air pollution control in accordance with AS 46.03.140 — 46.03.230;
- (6) provide water pollution control;
- (7) participate in federal or state loan programs for housing rehabilitation and improvement for energy conservation;
- (8) provide for economic development;

(9) provide for the acquisition and construction of local service roads and trails under AS 19.30.111 — 19.30.251;

(10) establish an emergency services communication center under AS 29.35.130;

(11) subject to AS 28.01.010, regulate the licensing and operation of motor vehicles and operators.

(b) A second class borough may by ordinance exercise the following powers on an areawide basis:

(1) provide transportation systems;

(2) license, impound, and dispose of animals;

(3) provide air pollution control in accordance with AS 46.03.140 — 46.03.230;

(4) provide water pollution control;

(5) license day care facilities.

(c) In addition to powers conferred by (a) of this section, a second class borough may, on a nonareawide basis, exercise a power not otherwise prohibited by law if the exercise of the power has been approved at an election by a majority of voters living in the borough but outside all cities in the borough.

(d) In addition to powers conferred by (b) of this section, a second class borough may, on an areawide basis, exercise a power not otherwise prohibited by law if the power has been acquired in accordance with AS 29.35.300. (§ 10 ch 74 SLA 1985)

Sec. 29.35.220. Third class borough powers. (a) A third class borough may borrow money and issue negotiable or nonnegotiable bonds or other evidences of indebtedness as provided by AS 29.47.

(b) Areawide exercise of a power by a third class borough other than education and tax assessment and collection is not authorized.

(c) A third class borough may acquire the power to provide for planning, platting, and land use regulation as provided in AS 29.40 for first and second class boroughs, except the power may only be exercised within a service area.

(d) A third class borough may acquire any power not otherwise prohibited by law, except the power may only be exercised within a service area. (§ 10 ch 74 SLA 1985)

Article 4. City Powers.

Section

250. Cities inside boroughs

260. Cities outside boroughs

Sec. 29.35.250. Cities inside boroughs. (a) A city inside a borough may exercise any power not otherwise prohibited by law.

(b) On adoption of a borough ordinance to provide for areawide exercise of a power, no city may exercise the power unless the borough ordinance provides otherwise or the borough by ordinance ceases to exercise the power.

(c) A home rule city in a third class borough shall provide for planning, platting, and land use regulation as provided by AS 29.35.180(b) for home rule boroughs. A first class city in a third class borough shall provide for planning, platting, and land use regulation as provided by AS 29.35.180(a) for first and second class boroughs. A second class city in a third class borough may provide for planning, platting, and land use regulation as provided by AS 29.35.180(a) for first and second class boroughs.

(d) This section applies to home rule and general law cities. (§ 10 ch 74 SLA 1985)

Sec. 29.35.260. Cities outside boroughs. (a) A city outside a borough may exercise a power not otherwise prohibited by law. A provision that is incorporated by reference to laws governing boroughs applies to home rule cities outside boroughs only if the provision is made applicable to home rule boroughs.

(b) A home rule or first class city outside a borough is a city school district and shall establish, operate, and maintain a system of public schools as provided by AS 29.35.160 for boroughs. A second class city outside a borough is not a school district and may not establish a system of public schools.

(c) A home rule city outside a borough shall provide for planning, platting, and land use regulation as provided by AS 29.35.180(b) for home rule boroughs. A first class city outside a borough shall, and a second class city outside a borough may, provide for planning, platting, and land use regulation as provided by AS 29.35.180(a) for first and second class boroughs.

(d) This section applies to home rule and general law cities. (§ 10 ch 74 SLA 1985)

Article 5. Acquisition of Additional Powers.

Section	Section
100. Additional powers	340. Effect of acquiring an areawide power
110. Transfer by city	350. Definition
120. Initiation of acquisition of power	
130. Election	

Sec. 29.35.300. Additional powers. (a) A first class borough acquires an additional areawide power by transfer of the power by a city or by holding an areawide election on the question.

(b) A second class borough acquires an additional power by transfer of the power by a city or by holding an election on the question. For acquisition of an areawide power, the election shall be held areawide. For acquisition of a nonareawide power, the election shall be held nonareawide.

(c) A third class borough acquires an additional power to exercise in a service area by forming a service area in accordance with AS 29.35.490(b) or (c). (§ 10 ch 74 SLA 1985)

Sec. 29.35.310. Transfer by city. (a) A city in a first or second class borough may transfer to the borough in which it is located any of its powers or functions, subject to the approval of the assembly.

(b) A first or second class borough shall exercise all powers transferred to it by a city. (§ 10 ch 74 SLA 1985)

Sec. 29.35.320. Initiation of acquisition of power. (a) An election on the question of adding an areawide power in a first class borough or of adding an areawide or nonareawide power in a second class borough may be initiated in two ways:

(1) a number of voters equal to 15 percent of the number of votes cast at the preceding regular election in the area, either areawide or nonareawide, in which the election is to be held may file a petition with the borough clerk; or

(2) the assembly may propose the acquisition of the power.

(b) An election on the question of adding a power in a third class borough for exercise in a service area may be initiated in two ways:

(1) a number of voters equal to 15 percent of the number of votes cast at the preceding regular election in a proposed service area in which the power is sought to be exercised may file a petition with the assembly; or

(2) the assembly may propose the acquisition of the power.

(c) The borough clerk shall certify whether a petition filed under (a) or (b) of this section contains the required number of signatures.

(d) Within 30 days after a petition is certified as containing the required number of signatures or the assembly proposes the acquisition of a power, at least one public hearing shall be held in the borough on the question. The assembly shall then evaluate the ability of the borough to exercise the power and make its findings public. Within 60 days after its findings have been made public, the assembly shall order an election on the question. (§ 10 ch 74 SLA 1985)

Sec. 29.35.330. Election. (a) If more than one power is proposed for acquisition under AS 29.35.320, each shall appear separately on the ballot.

(b) If a power is proposed for exercise by a third class borough in a service area, only voters residing in the proposed service area may vote.

(c) A vote on the question of adding an areawide power in a first or second class borough shall be tabulated in two separate classifications. One shall consist of all votes cast in all cities located in the borough. The other shall consist of all votes cast in the borough area outside all cities. If the majority of the votes cast in each classification is favorable, the borough shall assume the added power within 30 days after certification of the election results.

(d) If a majority of the votes cast on the question of adding a nonareawide power in a second class borough or a power to be exercised in a service area in a third class borough is favorable, the borough shall assume the added power within 30 days after certification of the election results.

(e) The borough mayor shall certify the election results to the department. (§ 10 ch 74 SLA 1985)

Sec. 29.35.340. Effect of acquiring an areawide power. (a) On acquisition of an areawide power the first or second class borough succeeds to all of the rights, powers, and duties of any city or service area with respect to that power. The borough succeeds to claims, franchises, and other contractual obligations, liability for bonded and all other indebtedness, and to all of the right, title, and interest in the real and personal property held by a city or service area for the exercise of the power.

(b) The assembly may levy and collect special charges, taxes, or assessments including interest for the purpose of amortizing bonded indebtedness previously incurred by a city or service area for exercising an areawide power acquired by the borough. When a city or service area had previously incurred bonded indebtedness, all property that was in the city or service area at the time the bonds were issued remains subject to taxation to pay the principal of and interest on the bonds.

(c) On acquisition of an additional areawide power the first or second class borough, in consultation with the city or service area personnel, shall arrange for an orderly and equitable transfer of rights, assets, liabilities, powers, duties, and other matters related to acquisition of the areawide powers.

(d) This section applies to home rule and general law cities. (§ 10 ch 74 SLA 1985)

Sec. 29.35.350. Definition. In AS 29.35.200 — 29.35.350, "power" means the provision of a public facility or service, or the exercise of a regulatory power. (§ 10 ch 74 SLA 1985)

Article 6. Construction of Powers.

Section	Section
400. General construction	420. Enumeration of powers
410. Extent of powers	

Sec. 29.35.400. General construction. A liberal construction shall be given to all powers and functions of a municipality conferred in this title. (§ 10 ch 74 SLA 1985)

Sec. 29.35.410. Extent of powers. Unless otherwise limited by law, a municipality has and may exercise all powers and functions necessarily or fairly implied in or incident to the purpose of all powers and functions conferred in this title. (§ 10 ch 74 SLA 1985)

NOTES TO DECISIONS

The city may exercise implied authority in police control where the exigencies of municipal life seem to require more rigid regulation than is required in the state at large. *Guidoni v. Wheeler*, 230 F. 93 (9th Cir. 1916), decided under former, similar law.

Sec. 29.35.420. Enumeration of powers. Specific examples in an enumerated power or function conferred upon a municipality in this title is illustrative of the object and not a limitation on or exclusion from the exercise of the power or function. (§ 10 ch 74 SLA 1985)

Article 7. Service Areas.

Section	Section
450. Service areas	480. Service areas in first class boroughs
460. Service area boards	490. Service areas in second and third class boroughs
470. Financing	

Sec. 29.35.450. Service areas. (a) A service area to provide special services in a borough may be established, operated, altered, or abolished by ordinance. Special services include services not provided on an areawide or nonareawide basis in the borough, or a higher or different level of service than that provided on an areawide or nonareawide basis. The borough may include a city in a service area if

- (1) the city agrees by ordinance; or
- (2) approval is granted by a majority of voters residing in the city, and by a majority of voters residing inside the boundaries of the proposed service area but outside of the city.

(b) A new service area may not be established if, consistent with the purposes of art. X of the state constitution, the new service can be provided by an existing service area, by annexation to a city, or by incorporation as a city. (§ 10 ch 74 SLA 1985)

Sec. 29.35.460. Service area boards. The assembly may provide for an appointed or elected board to supervise the furnishing of special services in a service area. (§ 10 ch 74 SLA 1985)

Sec. 29.35.470. Financing. The assembly may levy or authorize the levying of taxes, charges, or assessments in a service area to finance the special services. If the assembly authorizes the levying of taxes, charges, or assessments, the rate of taxation and the issuance of bonds are subject to assembly approval. (§ 10 ch 74 SLA 1985)

Sec. 29.35.480. Service areas in first class boroughs. In a first class borough, the assembly may exercise in a service area any power granted a first class city by law. The assembly may exercise in a service area any nonareawide power that may be exercised by a first class borough. (§ 10 ch 74 SLA 1985)

Sec. 29.35.490. Service areas in second and third class boroughs. (a) A second class borough may exercise in a service area any power granted a first class city by law or a nonareawide power that may be exercised by a first class borough if

(1) the exercise of the power is approved by a majority of the voters residing in the service area; or

(2) all owners of real property in the service area consent in writing to the exercise of the power if no voters reside in the service area.

(b) If the exercise of the power is approved by a majority of the voters residing in the service area, a third class borough may exercise in a service area any power not otherwise prohibited by law.

(c) A second or third class borough may establish a service area that includes only vacant, unappropriated, and unreserved land owned by the borough. A second or third class borough may establish a service area, with the concurrence of the commissioner of natural resources, that includes only vacant, unappropriated, and unreserved land owned by the state and classified for disposal to individuals. By ordinance a second or third class borough may provide the services in a service area established under this subsection necessary to develop state or municipal land as required by the planning, platting, and land use regulations of the borough. (§ 10 ch 74 SLA 1985)

Article 8. Hazardous Materials and Hazardous Wastes.

Section	Section
500. Reporting	540. Public access to information
510. Inspections; penalties	550. Application
520. Fees	560. Municipal liability
530. Duties of division of fire prevention	590. Definitions

Cross references. — For legislative intent in enacting this Article, see § 1, ch. 108, SLA 1986, in the Temporary and Special Acts.

Effective dates. — Section 5, ch. 108, SLA 1986, provides: "This Act takes effect January 1, 1987."

Sec. 29.35.500. Reporting. (a) If a municipality establishes a program for the reporting of hazardous materials and hazardous wastes, then the municipality shall require a business or a government agency that handles hazardous materials or hazardous wastes to submit to a designated person or office of the municipality, on a form provided by the Department of Public Safety, division of fire prevention, an inventory of the hazardous materials and hazardous wastes the business or government agency handles.

(b) An inventory required under this section shall include at least the following information about each of the hazardous materials and hazardous wastes that the business or government agency handles:

- (1) hazard class;
 - (2) chemical name;
 - (3) proper shipping name;
 - (4) maximum estimated quantity;
 - (5) location;
 - (6) method of disposal;
 - (7) United Nations (UN) or North American (NA) number.
- (8) The following quantities of hazardous materials and hazardous wastes shall be reported in an inventory required under this section, and the division of fire prevention or a municipality may require the reporting of smaller quantities:
- (A) any quantity of a hazardous material of the hazard class of
 - (1) Poison A;
 - (2) Poison B;
 - (3) Class A explosive;
 - (4) Class B explosive;
 - (5) Flammable solid (dangerous when wet); or
 - (6) Radioactive;
 - (2) a consumer commodity in a quantity of more than 1,000 pounds;
 - (3) other hazardous materials handled, stored, used, processed, or disposed of at one time and place in an aggregate quantity of more than

(A) 500 pounds of materials of a single hazard class; or
(B) 1,000 pounds of materials of more than one hazard class;
(4) acute hazardous waste in a quantity of 2.2 pounds or more; and
(5) another hazardous waste in a quantity of 220 pounds or more.
(d) A business or government agency required to submit an inventory under this section shall submit the first inventory within 30 days after the municipality's reporting requirements take effect or within 30 days after beginning to handle the hazardous materials or hazardous wastes. Thereafter, the business or government agency shall submit an inventory annually.

(e) A municipality that establishes a program for the reporting of hazardous materials and hazardous wastes shall also require a business or government agency that handles hazardous materials or hazardous wastes to report

(1) significant change in the general location of hazardous materials or hazardous wastes within 24 hours after moving the materials or wastes; and

(2) additions of hazardous materials or hazardous wastes meeting criteria for reporting hazardous materials or hazardous wastes under (c) of this section, on a monthly basis.

(f) A municipality that establishes a program for the reporting of hazardous materials may require a business or government agency that handles hazardous materials to submit a federal Occupational Safety and Health Administration (OSHA) form 20 (Material Safety Data Sheet) or equivalent information for each of the materials or wastes handled.

(g) The requirements of this section may be imposed by a municipality on a business or government agency that handles hazardous materials or hazardous wastes outside of the boundaries of the municipality if a fire or other emergency involving the materials or wastes would be

(1) likely to adversely affect persons or property in the municipality; or

(2) responded to by emergency response personnel whose service area includes all or a part of the municipality. (§ 4 ch 108 SLA 1986)

Sec. 29.35.510. Inspections; penalties. A municipality may conduct inspections, and establish and impose penalties, necessary to ensure compliance with reporting requirements adopted under AS 29.35.500 and placarding requirements adopted under AS 18.70.310. (§ 4 ch 108 SLA 1986)

Sec. 29.35.520. Fees. A municipality may impose appropriate fees to fully or partially compensate for the cost of processing reports and administering inspections under AS 29.35.500 — 29.35.510. (§ 4 ch 108 SLA 1986)

Sec. 29.35.530. Duties of division of fire prevention. (a) The Department of Public Safety, division of fire prevention, at the request of a business or government agency required to submit an inventory under AS 29.35.500 or of a municipality, shall provide

(1) a descriptive summary of the hazardous materials and hazardous wastes that are required to be included in an inventory; and
(2) inventory forms.

(b) The division of fire prevention, at the request of a business or government agency required to submit an inventory under AS 29.35.500 or of a municipality, shall provide a list of the hazardous materials and hazardous wastes that are required to be included in an inventory.

(c) The division of fire prevention, the Department of Environmental Conservation, the Department of Health and Social Services, or the Department of Labor may

(1) request copies of inventories submitted under AS 29.35.500; and
(2) provide educational materials related to hazardous materials and hazardous wastes. (§ 4 ch 108 SLA 1986)

Sec. 29.35.540. Public access to information. Information obtained by a municipality under AS 29.35.500, 29.35.510, and 29.35.530 shall be made readily available to the public for inspection and copying. (§ 4, ch 108 SLA 1986)

Sec. 29.35.550. Application. AS 29.35.500 — 29.35.590 apply to home rule and general law municipalities. (§ 4 ch 108 SLA 1986)

Sec. 29.35.560. Municipal liability. The establishment by a municipality of a program for the reporting of hazardous materials and hazardous wastes does not increase the liability that may otherwise be imposed on the municipality for damages resulting from hazardous materials or hazardous waste. (§ 4 ch 108 SLA 1986)

Sec. 29.35.590. Definitions. In AS 29.35.500 — 29.35.590

(1) "acute hazardous waste" means a waste listed by the administrator of the Environmental Protection Agency in accordance with the criteria in 40 C.F.R. 261.11(a)(2);

(2) "consumer commodity" means a material that is packaged and distributed in a form intended or suitable for sale through retail sales agencies or instrumentalities for consumption by individuals for purposes of personal care or household use, including a drug or medicine;

(3) "handles" includes disposes of, generates, processes, stores, treats, and uses hazardous materials or wastes, but does not include the handling of hazardous materials or hazardous wastes while they are in transit and before they reach the final destination indicated on the shipping paper accompanying the shipment; in this paragraph, "shipping paper" has the meaning given in 49 C.F.R. 171.8;

(4) "hazard class" means the class of a hazardous material defined in 49 C.F.R. 173;

(5) "hazardous material" means a material or substance, as defined in 49 C.F.R. 171.8, and any other substance determined by the division of fire prevention, or by a municipality for purposes of its own reporting program, to pose a significant health and safety hazard; "hazardous material" does not include food, drugs, alcoholic beverages, cosmetics, tobacco, or tobacco products intended for personal consumption;

(6) "hazardous waste" means a hazardous waste as identified by the Environmental Protection Agency under 40 C.F.R. 261, and any other hazardous waste defined by the division of fire prevention or by a municipality for purposes of its own reporting program;

(7) "quantity" means the total amount of a material or waste handled at a time and includes the aggregate of a material or waste that is divided among multiple containers. (§ 4 ch 108 SLA 1988)

Chapter 38. Borough Powers and Duties in the Area Outside Cities.

[Repealed, § 88 ch 74 SLA 1985.]

Chapter 40. Planning, Platting, and Land Use Regulation.

<p>Section</p> <p>10. Planning, platting, and land use regulation</p> <p>20. Planning commission</p> <p>30. Comprehensive plan</p> <p>40. Land use regulation</p> <p>50. Appeals from administrative decisions</p> <p>60. Judicial review</p> <p>70. Platting regulation</p> <p>80. Platting authority</p> <p>90. Abbreviated plats and waivers</p>	<p>Section</p> <p>100. Information required</p> <p>110. Plat procedure</p> <p>120. Alteration or replat petition</p> <p>130. Notice of hearing</p> <p>140. Hearing and determination</p> <p>150. Recording</p> <p>160. Title to vacated area</p> <p>170. Delegations</p> <p>180. Violations</p> <p>190. Remedies</p> <p>200. Subdivisions of</p>
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Chapter 25. Municipal Enactments.

Section 70. Penalties

Sec. 29.25.070. Penalties. (a) For the violation of an ordinance, a municipality may by ordinance prescribe a penalty not to exceed a fine of \$1,000 and imprisonment for 90 days. For a violation that cannot result in incarceration or the loss of a valuable license, a municipality may allow disposition of the violation without court appearance and establish a schedule of fine amounts for each offense.

(b) The municipality or an aggrieved person may institute a civil action against a person who violates an ordinance. In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction. Each day that a violation of an ordinance continues constitutes a separate violation.

(c) The penalties authorized under this section may be imposed only if copies of the ordinance are made available for distribution to the public at no more than cost.

(d) This section does not apply to an ordinance adopted under AS 04:11.498(d) or (e). (§ 8 ch 74 SLA 1985; am § 16 ch 80 SLA 1986; am § 11 ch 76 SLA 1987)

Effect of amendments. — The 1987 amendment, effective January 1, 1988, added the last sentence of subsection (a).

Chapter 35. Municipal Powers and Duties.

Section 70. Public utilities

Sec. 29.35.070. Public utilities. (a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate, fix, establish, and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility that is not subject to regulation under AS 42.05 unless that utility is exempted from regulation under AS 42.05.711(a) or (d) — (k).

(b) A municipality may provide for a reasonable deposit for meters and service to be given if interest is paid on the deposit.

(c) Unless the utility is owned by the municipality, all rates, charges, and regulations established under this section shall be estab-

lished by ordinance and shall be reasonable and permit a fair return on invested capital.

(d) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

Editor's notes. — This section is set out to correct an error in enactment.

Chapter 45. Municipal Taxation.

Article

1. Municipal Property Tax (§§ 29.45.065, 29.45.230)
4. Borough Sales and Use Tax (§ 29.45.650)
5. City Sales and Use Tax (§ 29.45.700)

Article 1. Municipal Property Tax.

Section

65. Assessment of private airports open for public use

Section

230. Tax adjustments on property affected by a natural disaster

Sec. 29.45.065. Assessment of private airports open for public use. (a) A municipality may provide by ordinance that airports located on private land and open and available for public use may be assessed at full and true value for airport use and not as if subdivided or used for some other nonairport use. The assessor shall maintain records valuing the land at both full and true value and airport use value. If the land is sold, leased, or otherwise disposed of for uses incompatible with airport use by the public or if the owner converts the land to a use incompatible with airport use by the public, the owner is liable to pay an amount equal to the additional tax at the current mill levy together with eight percent interest from the time of the incompatibility, as if the land had not been assessed for airport use. Payment of the additional tax and interest shall be made to the municipality.

(b) To secure the assessment under this section, the owner of the airport shall show that the airport is on private land, is open and available for public use, and is of benefit to the public or municipality. The owner shall apply to the assessor before May 15 of each year that the assessment is desired on forms to be prescribed by the municipality for use of the local assessor and shall include information reasonably required to determine the entitlement of the applicant. If the land is leased for airport purposes, the applicant shall furnish the assessor with a copy of the lease bearing the signature of both the lessee and lessor for the period that the exemption is requested.

(c) In this section, "airport" means an area of land or water that is used for the landing, takeoff, movement, or parking of aircraft, and the appurtenant areas that are used for airport buildings or other

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~~STILL~~
OUT 2-2-88

Original sponsor: Fahrenkamp

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 276 (Judiciary)

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 brewpub, brewery, and beverage
7 dispensary liquor licenses; and to prohibited finan-
8 cial interests in a licensed liquor business."

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

0 * Section 1. AS 04.11.080 is amended by adding a new paragraph to read:
1 (20) brewpub license.

2 * Se . 2. AS 04.11.130(b) is amended to read:
3 (b) A brewery license authorizes the holder to sell beer in
4 quantities of more than five [WINE] gallons to persons licensed to
5 sell beer under this title, or in another state or country.

6 * Sec. 3. AS 04.11 is amended by adding a new section to read:
7 Sec. 04.11.135. BREWPUB LICENSE. (a) A brewpub license author-
8 izes the holder of a beverage dispensary license to

9 (1) manufacture on premises licensed under the beverage
0 dispensary license not more than 16,000 gallons of beer in a calendar
1 year; and

2 (2) sell beer manufactured on premises licensed under the
3 beverage dispensary license for consumption only on the licensed
4 premises.

5 (b) Except as provided under AS 04.11.360(12), the brewpub
6 license is not transferable, shall remain the property of the state,
7 and is not subject to any form of alienation.

8 (c) The annual brewpub license fee is \$250.

9 * Sec. 4. AS 04.11.360 is amended by adding a new paragraph to read: