

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
6659 SENATE STATE AFFAIRS

1063

1 may not license or regulate video gaming devices.

2 (c) This section applies to home rule and general law municipal-  
3 ities.

4 \* Sec. 14. AS 29.45.650(f) is amended to read:

5 (f) This subsection applies to home rule and general law munic-  
6 ipalities. A borough may not levy and collect a sales tax on

7 (1) a purchase made with

8 (A) [(1)] food coupons, food stamps, or other type of  
certificate issued under 7 U.S.C. 2011 - 2025 (Food Stamp Act);

9 (B) [OR (2)] food instruments, food vouchers, or  
10 other type of certificate issued under 42 U.S.C. 1786 (Special  
11 Supplemental Food Program for Women, Infants, and Children); or  
12

13 (2) transactions involving video gaming devices. [THIS  
14 SUBSECTION APPLIES TO HOME RULE AND GENERAL LAW MUNICIPALITIES.]

15 \* Sec. 15. AS 29.45.700(d) is amended to read:

16 (d) This subsection applies to home rule and general law munic-  
17 ipalities. A city that levies and collects sales and use taxes under

18 (a) of this section may not levy and collect a sales tax on

19 (1) a purchase made with

20 (A) [(1)] food coupons, food stamps, or other types of  
21 certificates issued under 7 U.S.C. 2011 - 2025 (Food Stamp Act);

22 (B) [OR (2)] food instruments, food vouchers, or other  
23 type of certificate issued under 42 U.S.C. 1786 (Special Supple-  
24 mental Food Program for Women, Infants, and Children); or

25 (2) transactions involving video gaming devices. [THIS  
26 SUBSECTION APPLIES TO HOME RULE AND GENERAL LAW MUNICIPALITIES.]

27 \* Sec. 16. AS 29.71.800 is amended by adding a new paragraph to read:

28 (26) "video gaming device" has the meaning given in AS 05.-  
29 45.900.

no moni  
tax

clarify that video gaming device isn't a coin-operated device (like pin-ball, cigarette, etc.)

1 \* Sec. 17. AS 39.25.120(c) is amended by adding a new paragraph to  
2 read: *partially exempt service*

3 (21) employees of the Alaska Gaming Commission.

4 \* Sec. 18. AS 39.50.200(b) is amended by adding a new paragraph to  
5 read: *Conflict of interest*

6 (50) Alaska Gaming Commission (AS 05.45.010).

7 \* Sec. 19. AS 43.35.010(a) is amended to read:

8 (a) A person who maintains for use or permits the use on premi-  
9 ses under the person's control of a coin-operated device class 1,  
10 class 2, or class 3 shall first pay a tax as follows:

- 11 (1) \$48 a year for each coin-operated device class 1;
- 12 (2) \$120 a year for each coin-operated device class 2;
- 13 (3) \$240 a year for each coin-operated device class 3,  
14 other than a video gaming device.

15 \* Sec. 20. AS 43.35.030 is amended by adding a new subsection to read:

16 (b) The provisions of (a) of this section do not apply to a  
17 person who is licensed as a distributor of video games under AS 05.-  
18 45.010 - 05.45.900.

19 \* Sec. 21. AS 43.35.090(3) is amended to read:

20 (3) "coin-operated device class 3"

21 (A) means a slot machine or other apparatus or device  
22 that [WHICH] operates by means of insertion of a coin, token, or  
23 similar object and that [WHICH], by strict dependence upon the  
24 element of chance, may deliver or may entitle the person playing  
25 or operating the machine to receive cash, premiums, merchandise,  
26 or tokens; the term includes a device or apparatus that is other-  
27 wise a coin-operated device class 2 [A DEVICE OR APPARATUS OTHER-  
28 WISE FALLING WITHIN THE CLASSIFICATION OF (2) OF THIS SECTION,  
29 THOUGH NOT STRICTLY DEPENDENT UPON THE ELEMENT OF CHANCE, IS

1 TAXED ACCORDING TO THE RATE APPLICABLE TO SLOT MACHINES] if the  
2 device or apparatus itself delivers cash directly to the person  
3 playing or operating it;

4 (F) does not include a video gaming device;

5 \* Sec. 22. AS 43.35.090 is amended by adding a new paragraph to read:

6 (5) "video gaming device" has the meaning given in AS 05.-  
7 45.900.

8 \* Sec. 23. AS 44.62.330(a) is amended by adding a new paragraph to  
9 read: *Admin. Procedures Act*

10 (55) Alaska Gaming Commission (AS 05.45.010).

11 \* Sec. 24. INITIAL COMMISSION APPOINTMENTS. The governor shall make  
12 the initial appointment of members of the Alaska Gaming Commission within  
13 120 days after the effective date of this Act.

14 \* Sec. 25. This Act takes effect July 1, 1990.

SUMMARY OF SSSB 263. AN ACT ESTABLISHING THE ALASKA GAMING COMMISSION, ETC.

REGULATION Gaming Commission in DCED would license distributors and operators, collect license fees, approve machines for use in the state, collect annual device fee and tax, provide enforcement. Municipalities could prohibit by ordinance.

GAMES Video draw poker, video keno, and other video games authorized by the commission.

MACHINE TEST Required before machine is sold or distributed. Gaming Commission performs test, or contracts with another state. Machine standards set in regulation.

LICENSES Distributor -- \$1000/yr. (must not have any gambling related offenses).  
Premises Operator (bar owner) -- \$100/yr. (must have beverage dispensary license, club license, common carrier license, or pub license; no gambling related offenses).

MACHINE FEE \$200/device paid by Premises Operator -- shared 1/3 to local government, 2/3 to state.

TAX *Washington* 15% of net income paid by Premises Operator -- shared 1/3 to local government, 2/3 to state (defined as money received from a device less money paid out in winnings).

SPECIFICS Located only in bars.  
Maximum 20 machines per bar.  
Age 21 to play.  
Restriction on hours of play same as restriction on sale of alcohol.  
Maximum bet \$2.  
Maximum payout \$100.  
Expected payback 80%.

PENALTIES License denied/revoked if commit felony or gaming offense.  
\$1000/day civil fine if fail to pay 15% tax.  
Class C felony (maximum 5 years, \$50,000) if tamper with machine to affect outcome of game.  
Under existing law: Class C felony if promote or profit from unlawful gambling enterprise or if possess gambling record used in unlawful enterprise); Class A misdemeanor (maximum 1 year, \$5000) if promote or profit from unlawful gambling, if possess unlawful gambling record, or manufacture, sell, transport, or possess unlawful gambling device); Class B misdemeanor (maximum 90 days, \$1000) for second general offense, violation for first general offense.

*Fiscal Note - \$7.4 mil → 1/3 to municipalities (2.5)  
+ ferry system 150-170K/yr.*

Sen. Pourchot  
March 7, 1990

SECTIONAL SUMMARY  
SSSB 263, AN ACT ESTABLISHING THE ALASKA GAMING COMMISSION

- Section 1 Lays out make-up and duties of the Gaming Commission.
- 05.45.010 Establishes the Alaska Gaming Commission in the Department of Commerce: 5 members, including the Commissioner of Dept. Commerce -- no felony convictions or gaming violations.
- 05.45.020 Serve 3-year staggered terms.
- 05.45.030 Governor may remove members for cause.
- 05.45.040 Receive per diem and travel.
- 05.45.050 Duties: License, regulate, and supervise video gaming; levy collect, and enforce payment of taxes and fees; adopt regulations regarding machine specifications; hire staff.
- 05.45.060 Employees are in partially exempt service.
- 05.45.090 Commission's operations are subject to Administrative Procedures Act.
- 05.45.200 Distributor's license required to manufacture, assemble, produce, or distribute devices; annual fee \$1000.
- 05.45.210 Premises Operator's license required before may install on premises; annual fee \$100.
- 05.45.220 licensees may not have felony convictions or have committed a gaming offense.
- 05.45.230 Gaming devices may be installed only on premises that sell alcohol (must hold beverage dispensary license, club license, common carrier dispensary license, or pub license). Maximum 20 devices per premise.
- 05.45.300 Commission must test and approve a prototype of each device before sale or distribution in the state; cost of test to be paid by distributor. Commission may contract with another state for this service.
- 05.45.310 Commission may regularly inspect devices once installed.
- 05.45.320 Must be age 21 to play. Play allowed only during hours that alcohol may be sold (under current statute, no sale between 5 a.m. and 8 a.m.; municipalities may restrict further by ordinance).
- 05.45.330 Maximum bet \$2.00
- 05.45.340 Expected payback must be at least 80%; maximum payout \$100.

- 05.45.400 Distributor and Premises Operator licenses may be revoked if the license holder commits a felony conviction or a gaming offense.
- 05.45.500 Annual \$200 fee per device, to be paid by Premises Operator. Quarterly tax of 15% of the net machine income to be paid by Premises Operator (defined as money received from a device less money paid out in winnings). Civil penalty of \$1000 per day for failure to pay.
- 05.45.510 Annual \$200 fee and 15% net income tax to be shared 1/3 to municipalities in which it's collected and 2/3 to state.
- 05.45.900 "Video gaming device" means an electronic draw poker or keno game, or another game if authorized by the commission. Games may not directly dispense coins or cash.
- Sections 2-6 Amend "games of chance and skill" statute to prohibit activity of persons convicted of video gaming offenses.
- Section 7 Class C felony if physically manipulate or interfere with a device to alter the outcome or payoff of a game.
- Sections 8-9 Clarify that video gaming is not an unlawful form of gambling.
- Section 10 Adds definition of video gaming device to the criminal code.
- Section 11 Mandates that the Department of Public Safety perform criminal record checks on Gaming Commission members.
- Section 12-16 Municipalities may by ordinance prohibit the installation and operation of video gaming devices; may not apply additional regulations or taxes.
- Section 17 Employees of the Gaming Commission would be partially exempt.
- Section 18 Members of the Gaming Commission would be subject to conflict of interest laws.
- Sections 19-22 Amend the Coin Operated Device statute (administered by Dept. Revenue; includes pinball and cigarette machines) to clarify that video gaming devices are to be administered by the Gaming Commission under a separate statute.
- Section 23 Includes the Alaska Gaming Commission under the Administrative Procedures Act.
- Section 24 Initial appointments to commission must be made within 120 days.
- Section 25 Effective date July 1, 1990.

PAT

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: An Act relating to video gaming devices  
Sponsor: Purchase by request  
Requestor: Senate State Affairs

Agency Affected: Commerce & Economic Dev.  
BRU: Occupational Licensing  
Components: Operating and Revenue

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

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	394.9	394.9	394.9	394.9	394.9	394.9
TRAVEL	36.3	36.3	36.3	36.3	36.3	36.3
CONTRACTUAL	104.5	104.5	104.5	104.5	104.5	104.5
SUPPLIES	12.0	10.0	10.0	10.0	10.0	10.0
EQUIPMENT	84.5*					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>632.2</b>	<b>545.7</b>	<b>545.7</b>	<b>545.7</b>	<b>545.7</b>	<b>545.7</b>

CAPITAL						
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REVENUE	7.481	7.481	7.481	7.481	7.481	7.481
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*5 of this, 2,486 would go to munis. Balance to state 4,995*

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	632.2	545.7	545.7	545.7	545.7	545.7
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME	8	8	8	8	8	8
PART-TIME						
TEMPORARY						

**ANALYSIS: (Attach a separate page if necessary)**

SEE ATTACHED

\*One-time equipment item

*less costs =  
4,363 in new revenues*

Prepared by: Randall P. Burns, Director Phone: 465-2581  
Division: Occupational Licensing Date: 2/20/90

Approved by Commissioner: Larry Merculieff *SM* Date: 3/6/90  
Agency: Department of Commerce & Economic Development

**Distribution (by preparer):**

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

SSSB 263

This bill would provide for video gaming devices to be exempted from the definition of gambling devices. It provides for regulation and taxation of these devices as well as the licensing of premises operators and distributors through a five-member Gaming Commission.

In addition to license fees, it provides for a tax at the rate of 15% of the net machine income and a per-device tax of \$200 per year. One-third of the taxes collected are to be distributed by legislative appropriation to municipalities in proportion to the revenue earned from the video devices found within each community.

The bill provides for the installation of video gaming devices only in premises licensed under AS 04.11:

1. a beverage dispensary license under AS 04.11.090;
2. a duplicate beverage dispensary license for additional rooms under AS 04.11.090(e);
3. a club license under AS 04.11.110;
4. a common carrier dispensary license under AS 04.11.180; or
5. a pub license under AS 04.11.220.

The bill would permit a maximum of 20 devices per premises. For the purposes of this fiscal note, an average of five machines per licensed premises was used for the revenue projection.

FY 91 OPERATING EXPENSES

Personal Service Costs

<u>Location</u>	<u>Position</u>	<u>Range/Step</u>	<u>Annual Salary and Benefits</u>
Juneau	Executive Director	24A	\$73.2
Juneau	Revenue Auditor III	18A	\$50.3
Juneau	Tax Examiner II	12A	\$35.0
Juneau	Investigator III	18A	\$50.3
Juneau	Clerk Typist III	8A	\$28.6
Anchorage	Revenue Auditor III	18A	\$50.3
Anchorage	Investigator III	18A	\$50.3
Fairbanks	Investigator III	18A	\$56.9
Total Personal Services			\$394.9

Travel Costs

<u>Staff</u> - Perform inspections, audits, investigations, regulation hearings	\$ 20.0
<u>Commission</u> - travel and per diem	\$ 16.3
Total Travel	\$36.3

Contractual

For Testing of Devices	\$ 15.0
For Routine Inspections (R/SA with ABC Board)	\$ 12.5
For Hearing Officer Services	\$ 25.0
For General Contractual (phones, photocopiers, postage, printing, etc.)	\$ 32.0
For Lease Space	\$ 12.0
For Staff Training	\$ 8.0
Total Contractual	\$ 104.5

Supplies (miscellaneous office supplies - start-up): \$ 12.0

Equipment:

Office furnishings and files  
(chair, module, S drawer file) -

\$9.9 x 6 staff	\$ 59.4
\$7.7 x 2 staff	\$ 15.4
Wang Laser Printer	\$ 9.7
Equipment Total	\$ 84.5*

TOTAL OPERATING \$ 632.2

\*This represents a one-time expenditure.

## REVENUE PROJECTION

This projection is based on the average of only five video gaming devices licensed in each premises. SSSB 263 would allow up to 20 devices per licensed premises. Under AS 43.35.210, approximately 935 premises could be licensed. In 1987 the State of Montana implemented "Video Draw Police Machine Law of 1985," which is similar in content to SSSB 263. Our revenue projection for this bill is based on an assumed annual gross profit per device of \$9,300, which was Montana's gross profit per device in 1988. Montana currently has 7,500 devices licensed and collected tax of \$10,500.0 in the first year of the law's enactment. Montana's tax rate is 15%, the same as in SSSB 263.

### TAX REVENUES

#### 15% Tax on Gross Receipts

Approx. number of licensed premises	935
Est. total average devices per premise	5
Total estimated number of gaming devices (5 x 935)	4,675
Projected gross profit per device	\$ 9,300

*1/3 → munis.*

Total gross profits (tax base; 4,675 x \$9,300)	\$43,477,500
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15% TAX REVENUE (.15 x \$43,477,500)	\$ 6,521,625
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#### \$200 Per-Device Tax

Total estimated gaming devices	4,675
Annual licensing fee	\$ 200
Total gaming device license fees (4,675 x \$200)	\$ 935,000

*1/3 → munis.*

<u>TOTAL ESTIMATED TAX REVENUE</u>	<u>\$ 7,456,652</u>
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*(2,485,551 would go to munis)*

### LICENSING FEE REVENUE

#### Premise Operator's License

Licensed Premise	935
Annual license fee	\$ 100
Total operator's license fee	\$ 9,350

#### Distributor Licenses

Est. number of distributors fee	15
Distributor License Fee	\$ 1,000
Distributor license revenue	\$15,000

<u>TOTAL LICENSING REVENUE</u>	<u>\$ 24,350</u>
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<u>TOTAL ESTIMATED REVENUE</u>	<u>\$7,481,002</u>
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Sen. Pourchot  
March 7, 1990

TECHNICAL AMENDMENTS  
SSSB 263, AN ACT ESTABLISHING THE ALASKA GAMING COMMISSION

#1 Page 6, lines 7-9  
Wording is awkward. Amend to read:

"... the commission shall test [AND APPROVE] a prototype of the device and approve the prototype if it determines that [TO ASCERTAIN WHETHER] a device manufactured to the specifications of the prototype meets minimum machine specification standards."

#2 Page 7, lines 13-14  
Wording conflicts with prohibition against cash payouts on page 9, lines 14-15. Amend to read:

"... provide the user of the device who is successful credits that may be redeemed for a maximum [CASH PAYOUT] of \$100 per game."

#3 Page 8, lines 2-3  
Wording should conform with wording throughout bill regarding premises operator. Amend to read:

"The holder of a video gaming device premises operator's license under AS 5.45.210 [A PERSON WHO MAINTAINS A VIDEO GAMING DEVICE FOR USE OR PERMITS THE USE OF A VIDEO GAMING DEVICE ON PREMISES UNDER THE PERSON'S CONTROL]...

VIDEO GAMING PENALTIES

Sen. Pourchot  
March 7, 1990

SSSB 263:

Sec. 7 Machine tampering to manipulate game's outcome = class C felony

05.45.010 Can't serve on Commission if felony/gambling conviction

05.45.220 Deny license if felony or gambling conviction

05.45.400 Suspend/revoke license if convicted of offense

05.45.500 Failure to pay 15% income tax = civil fine \$1000/day

Note: All penalties of existing law would also apply

EXISTING LAW:

04.11.370(8) ABC Board revoke liquor license if illegal gambling occurs on license premise

11.66.200 Gambling 1st offense = violation; gambling 2nd offense = class B misdemeanor (90 days, \$1000)

11.66.210 Promote or profit from unlawful gambling enterprise = class C felony (5 years, \$50,000)

11.66.220 Promote or profit from unlawful gambling = class A misdemeanor (1 year, \$5000)

11.66.230 Possess gambling record used in operation of unlawful gambling enterprise = class C felony

11.66.240 Possess unlawful gambling record = class A misdemeanor

11.66.260 Manufacture, sell, transport, possess unlawful gambling device = class A misdemeanor

11.66.270 Must forfeit gambling records, devices, and money used as bet or stake

Note: See 15.55.125-.135 and 12.55.035 for fines and sentences

MONTANA:

23-5-152 Possess illegal gambling device = misdemeanor

23-5-136 Administrative remedies = order to cease and desist, suspend/revoke license, \$10,000 civil penalty for each violation, etc.

23-5-155 Counterfeit seal, license, etc. = felony (10 years, \$50,000)

23-5-156 Operate illegal gambling device = felony if revenues over \$300, misdemeanor if under \$300

23-5-622 Machine tampering to manipulate game's outcome = felony

23-5-161 All gambling offenses not otherwise mentioned are misdemeanors (1st \$500, 2nd 6 months and \$1000, 3rd 1 year and \$10,000, 4th 1 year and \$10,000 and forever barred from licensure)

*illegal gambling*

Sen. Pourchot  
March 7, 1990

THE GAMBLING BALLOT INITIATIVE has been certified for placement on the ballot in 1990. Its primary provisions:

1. A 5-member Gambling Board in the Department of Revenue would regulate all forms of gambling except games of chance/contests of skill. Board members would be paid at Range 26C.
2. Details would be worked out in regulation (license fees, calculation of gross revenue, allowable forms of gambling, etc.).
3. Gambling could be conducted by a municipality, the state, or a liquor license holder, but couldn't be conducted in a municipality without voter approval.
4. Proceeds would be distributed as follows:  
If state-run, 100% to state.  
If liquor-license-holder-run, 3% to 5.75% of gross revenue to state (depending on total revenue). If located in municipality, this would be split 50% state/50% municipality. Plus, municipality may establish additional fees.  
If municipality-run, the 3-5.75% of gross revenue would be split 50% state/50% municipality.
5. Broad definition of game (roulette, wheel of fortune, craps, poker, baccarat, slot machine, etc.).

NOTE: A COPY OF THE INITIATIVE IS AVAILABLE FROM COMMITTEE STAFF.

# STATE OF ALASKA THE LEGISLATURE

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

## LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 26, 1990

SUBJECT: Sponsor Substitute for Senate Bill 263  
(relating to video gaming) and pending  
gambling initiative

TO: Senator Pat Pourchot

FROM: Jack Chenoweth  
Legislative Counsel

Your office advises that you have been asked to comment as to whether enactment of the Sponsor Substitute for Senate Bill 263, regulating video gaming, would invalidate the initiative petition to authorize gambling in the state.

The following is offered to help you prepare a response.

Under section 4 of article XI of the Alaska Constitution, an initiative petition is void if "before the election [for which the initiative has been certified], substantially the same measure" has been enacted by the Alaska legislature.

I have reviewed the initiative and, in my judgment, the legislation you have offered by request is not "substantially the same measure" such that the initiative would be made void and removed from the ballot. Of course, the final determination of compliance with the test rests with the lieutenant governor, with the formal concurrence of the attorney general, AS 15.45.210, so my views on the comparison of the two are not controlling.

The standards applicable to gauge whether "substantially the same measure" has been enacted is set out in Warren v. Boucher, 543 P.2d 731 (Alaska 1975). After determining that "substantially the same measure" could only be determined "by reference to all the circumstances surrounding the context in which they are used," Warren, at 736, the court concluded:

Senator Pat Pourchot  
Page 2  
February 26, 1990

. . . we have concluded that the legislature's discretion in this matter [i.e. in deciding how far the legislative act should differ from the provisions of a pending initiative] is reasonably broad. If in the main the legislative act achieves the same general purpose as the initiative, if the legislative act accomplishes the purpose by means or systems which are fairly comparable, then substantial similarity exists. It is not necessary that the two measures correspond in minor particulars, or even as to all major features, if the subject matter is necessarily complex or if it requires comprehensive treatment. The broader the reach of the subject matter, the more latitude must be allowed the legislature to vary from the particular features of the initiative.

Id.

While the two measures may use similar means--a board, a licensing requirement, imposition of taxes and fees, and the definition and imposition of criminal penalties--to achieve the objective of regulation in the respective spheres each addresses, the video gaming measure and the pending initiative clearly are not intended to address the same ends or to operate with same general reach. There are at least two significant differences. The measure before the Senate addresses video gaming, only one element of the topic of gambling that is the subject matter of the broader initiative to authorize and regulate gambling; the initiative is intended to regulate gambling through use of "cards, dice, equipment, and mechanical, electromechanical, and electronic devices," a more comprehensive scope than is addressed by the bill. Moreover, insofar as the initiative authorizes the issuance of licenses to "gambling enterprises," a rather wide range of entities may qualify; your bill would authorize video gaming only in conjunction with certain establishments licensed to sell liquor. Thus, it seems to me that there is little to suggest that the measures should be understood to serve "the same general purpose," the standard of Warren v. Boucher, and the adoption of the bill ought not to prevent the initiative from remaining on the August primary ballot.

I trust this is sufficient for the purposes intended. If this memorandum prompts questions, please contact me.

JBC:lmb  
L9/133

PAT -

from Jeanne

I ASKED LEGAL TO COMPARE THE POTENTIAL RELATIONSHIP BETWEEN SB 263 (VIDEO GAMING) AND THE UPCOMING INITIATIVE IF ONE OR THE OTHER OR BOTH PASS.

THE FIRST QUESTION "WOULD ADOPTION OF SB263 VOID THE INITIATIVE?" Unlikely. The approach taken in your bill is much narrower than the initiative, therefore, it is unlikely the Lt. Gov. would find them to be "substantially the same".

"WOULD THE INITIATIVE, IF APPROVED, SUPERSEDE OR AFFECT SB263 IF IT PASSES?" Probably, although not certain. To the extent the initiative substantially replicates the bill, the initiative may supersede.

However, it is uncertain whether the provision in the bill restricting placement of video gaming devices to places that sell alcoholic beverages would carry over. It may be determined that such a restriction is the responsibility of the Gambling Board.

"WOULD THE INITIATIVE, IF APPROVED, AUTHORIZE REGULATION OF VIDEO GAMING DEVICES IF THE BILL DOESN'T PASS? Yes; but not necessarily with the same restrictions contained in the bill.

- \* SB 263 takes effect July 1, 1990.  
Initiative will be voted on in August primary, would become effective in mid-December.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 5, 1990

SUBJECT: SSSB 263 (Gaming Commission and video gaming devices) and the 1990 Initiative on gambling

TO: Senator Pat Pourchot  
ATTN: M. Jeanne Larson

FROM: Jack Chenoweth  
Legislative Counsel

You have asked after the relationship between SSSB 263, establishing a Gaming Commission and authorizing and regulating video gaming devices, and a 1990 Initiative establishing a Gambling Board and relating to the regulation of gambling.

Two general questions arise: (1) whether adoption of SSSB 263, as introduced, is sufficient under article XI, section 4, Alaska Constitution, to void the initiative petition, and (2) whether the initiative petition, if approved by the public, would supersede or affect SSSB 263. There also arises a question of whether the initiative petition, if approved by the voters, would authorize regulation of video gaming devices if SSSB 263 does not become law.

I

The question of whether SSSB 263 constitutes "substantially the same measure" as the 1990 Initiative so that the approval of SSSB 263 as introduced renders the initiative petition void rests with the lieutenant governor, with the formal concurrence of the attorney general. AS 15.45.210. As introduced, SSSB 263 does not address elements of gambling beyond video gaming, and the approach taken in the initiative is not nearly as comprehensive as that spelled out in the bill. Suffice to say, the initiative is far broader in its scope and approach than the bill, and there are sufficient grounds for the lieutenant governor to conclude that the two measures are not "substantially the same."

II

If the initiative is approved by the public in the forthcoming election, it is likely, albeit not altogether certain, that its provisions would supersede those set out in SSSB 263 insofar as the initiative addresses regulation of gaming devices. There are, of course, radical differences between the two approaches. For our purposes, many of them are either not relevant or cosmetic differences. Resolution of the question of the degree of similarity between the bill and the initiative probably turns in part on the definition of "video gaming device." The bill defines a "gaming device," grounding the definition on certain characteristics applicable to an electronic machine that imitates the play of draw poker, keno, and other games that may be authorized by the Gaming Commission. The counterpart definition appearing in the initiative is the definition of the word "game," which, among other elements, includes reference to an electronic device that, among others, simulates the play of "poker," "keno," "or other game or device approved by the [Gambling Board]." Clearly the definitions, and hence the scope of state regulation under the bill and the initiative, overlap. To the extent it is determined that the provisions of the initiative substantially replicate those of SSSB 263, the provisions of the initiative may be deemed to supersede those of the bill, at least as to the scope of the matter regulated by SSSB 263.

If the bill and the initiative are both approved, one significant legal question necessarily arising would be whether the restriction of licenses for placement of video gaming devices in certain establishments licensed to sell alcoholic beverages would continue in effect under the provisions of the initiative. There is no certain answer. However, if one looks upon the initiative as constituting a broader public endorsement of gambling and gaming than the provisions of SSSB 263, one might contend, perhaps successfully, that the initiative's provisions effectively supersede those set out in the bill, and that the provisions limiting issuance of video gaming premises licenses to licensed liquor establishments would have to give way to whatever regulatory scheme were eventually developed by the Gambling Board.

Assuming SSSB 263 is approved and becomes law, it would, by its terms, take effect July 1, 1990. If the initiative appears on the November general election ballot and is approved, it would not take effect until late February, or 90

days after its certification. AS 15.45.220. This delay would permit the legislature, during the first session of the 17th Legislature, opportunity to re-address the video gaming issue and provide, by law, for a better "fit" between the initiative and the bill. Among the options available would be (1) amendment of the initiative to incorporate more of the specifics of regulation under SSSB 263; (2) repealing many of the specific provisions of SSSB 263 to allow the Gambling Board to assume the duties of the Gaming Commission; or (3) repealing SSSB 263 altogether and revising the definition of "game" in the initiative to assure regulation of video gaming devices under regulatory mechanism established in the voter-approved initiative.

### III

For reasons noted above, if the 1990 Initiative is approved but SSSB 263 has not, the newly-established Gambling Board would have a substantial basis to claim authority over regulation of video gaming devices. Nothing in the initiative requires the Gambling Board to limit or restrict the issuance of licenses for video gaming devices to establishments licensed to sell alcoholic beverages. By my reading of the initiative, municipalities and others may apply for game licenses, including those applicable to "games" that have an electronic base and that provide for "poker," "keno," or "other game or device identified by the [Gambling B]oard," the very elements that are arguably the essence of video gaming device regulation under SSSB 263:

JBC:lmb  
L9/088

This is the ballot initiative -  
will be on ballot Nov. 1990

A BILL

For an Act entitled "An Act relating to regulation of gambling and  
establishing the Alaska Gambling Board."

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

\* Section 1. POLICY. State regulated gambling offers an opportunity for economic development of the state and improvement of the general welfare of the people of the state. The success of gambling is dependent upon public confidence and trust that licensed gambling is conducted honestly and competitively and that gambling is free from criminal and corruptive elements. Public confidence and trust can only be maintained by strict regulation of all persons, practices, and activities related to the operation of licensed gambling enterprises and the manufacture and distribution of gambling devices and equipment. All premises where gambling is conducted and where gambling devices are operated must be licensed and controlled to protect the public health, safety, morals and general welfare of the people of the state, to foster the stability and success of gambling, and to preserve the competitive economy and policies of free competition in the state. The provisions of this bill are not exhaustive, and shall be supplemented and enhanced by the legislature, in accordance with Article XI, Section 6 of the Alaska Constitution.

\* Sec. 2 AS 05 is amended by adding a new chapter to read:

CHAPTER 40. REGULATION OF GAMBLING. *not allowed in muni. unless voter referendum*  
ARTICLE 1. ALASKA GAMBLING BOARD. *broad definition of "game" (see p. 11)*

*gambling board - 5 members, Dept. Revenue*

*Paid range 26 C*

*regulate all gambling except games chance (contests ski*

*by regulation: license fees, forms of gambling permitted, calculation of gross revenue*

*gambling may be conducted by: muni, state, holder beverage dispensary licen*

*proceeds: if state - nn, 100% of net <sup>not defined</sup> proceeds to board*

*if muni, 50% of "other" to board*

*if other, 3% of gross revenue (\$50,000/mo/4% \$50.0 - \$134.0/5 1/4% above \$134.0 to board. If located in muni, split 50/50 between state & muni.*

Sec. 05.40.060. JURISDICTION. (a) The board shall regulate all forms of gambling, including gambling games, gaming devices, racing, and parimutuel wagering, except it shall not regulate games of chance and contests of skill under AS 05.15.

(b) Jurisdiction of the board extends to every person conducting, or employed in the conduct of, gambling authorized under this chapter.

Sec. 05.40.070. DUTIES AND POWERS OF THE BOARD. (a) The board shall

(1) license, regulate, and supervise all gambling enterprises;

(2) license and regulate the manufacture, sale, and distribution of gambling devices and equipment;

(3) establish standards for the reports and financial records that must be maintained by operators of licensed gambling enterprises;

(4) set all license fees;

(5) require licensees to keep detailed records of all collections and disbursements;

(6) establish procedures for resolution of disputes between a licensee and a patron of a gambling enterprise;

(7) hire staff as needed to enforce and administer this chapter;

(8) adopt regulations concerning

(A) the issuance, renewal, suspension, and revocation of licenses for gambling enterprises;

(B) the issuance, renewal, suspension and revocation of work permits for employees of a gambling enterprise;

# **CORRECTION**

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

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*regulate all gambling except games chance / contests ski*

*by regulation: license fees, forms of gambling permitted, calculation of gross revenue*

*gambling may be conducted by: muni, state, holder beverage dispensary license*

*proceeds: if state-run, 100% of net <sup>not defined</sup> proceeds to board*  
*if muni, 50% of "other" to board <sup>cash received as winnings</sup>*  
*if other, 3% of gross revenue  $\leq \$50,000$  / 4%  $\$50,000 - \$134,000$  / 5 1/4% above  $\$134,000$  to board. If located in muni, split 50/50 between state & muni.*

Sec. 05.40.010. ALASKA GAMBLING BOARD. (a) The Alaska Gambling Board is established in the Department of Revenue as a regulatory and quasi-judicial agency. The board is composed of five members appointed by the governor and confirmed by the legislature in joint session.

(b) Each member of the board shall at the time of the member's appointment be a resident of the state.

(c) A person may not serve as a member of the board if that person has been convicted of

(1) a felony; or

(2) An offense defined in AS 11.65.200 - 11.66.280 or a comparable provision of municipal, state, or federal law.

(d) The board shall elect a chairman from its membership.

Sec. 05.40.020. TERM OF OFFICE. An appointment to the board is for a term of four years. A vacancy is filled by appointment for the unexpired term. A member of the board holds office until a successor is appointed and qualifies.

Sec. 05.40.030. REMOVAL FROM OFFICE. The governor may remove a member of the board for the neglect of a duty required by law, or for other cause, after first giving the member a statement of the charges and an opportunity to be heard.

Sec. 05.40.040. COMPENSATION AND PER DIEM. Members of the board are in the exempt service and are entitled to a monthly salary equal to Step C, Range 26 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska.

Sec. 05.40.050. QUORUM. Three members of the board constitute a quorum for the transaction of business.

Sec. 05.40.060. JURISDICTION. (a) The board shall regulate all forms of gambling, including gambling games, gaming devices, racing, and parimutuel wagering, except it shall not regulate games of chance and contests of skill under AS 05.15.

(b) Jurisdiction of the board extends to every person conducting, or employed in the conduct of, gambling authorized under this chapter.

Sec. 05.40.070. DUTIES AND POWERS OF THE BOARD. (a) The board shall

(1) license, regulate, and supervise all gambling enterprises;

(2) license and regulate the manufacture, sale, and distribution of gambling devices and equipment;

(3) establish standards for the reports and financial records that must be maintained by operators of licensed gambling enterprises;

(4) set all license fees;

(5) require licensees to keep detailed records of all collections and disbursements;

(6) establish procedures for resolution of disputes between a licensee and a patron of a gambling enterprise;

(7) hire staff as needed to enforce and administer this chapter;

(8) adopt regulations concerning

(A) the issuance, renewal, suspension, and revocation of licenses for gambling enterprises;

(B) the issuance, renewal, suspension and revocation of work permits for employees of a gambling enterprise;

(C) the information that applicants for a gambling enterprise license or work permit must provide to the board;

(D) fingerprinting or other identification of applicants, licensees, or permittees;

(E) fees for licenses and costs of investigation of applicants for a license or permit;

(F) the games, gaming devices, equipment, and other forms of gambling permitted;

(G) uniform rules and procedures for the operation of games, devices, equipment, and other forms of gambling permitted by the board;

(H) the manufacture, sale, and distribution of gambling devices and equipment;

(I) the size of the premises where gambling is conducted and the nature and number of facilities and furnishings provided on the premises;

(J) security services provided on the premises of a gambling enterprise;

(K) exclusion or ejection of certain persons from licensed establishments;

(L) the method of accounting for receipts and disbursements including the keeping of records and requirements for banking of receipts;

(M) calculation of gross revenue of a gambling enterprise;

(9) the procedures and requirements for a state agency or municipality to contract for the operation of a gambling enterprise under a license issued to the state agency or the municipality;

(10) pay fees and other money received into the general fund;

(11) make an annual report to the commissioner of revenue and the legislature of its administration of this chapter before February 1 of each year.

(b) The board may

(1) issue subpoenas to compel witnesses to appear before it;

(2) compel the production of documents showing the receipts and disbursements of a person licensed to conduct a gambling enterprise;

(3) appoint a hearing officer to conduct a hearing required by this chapter or by a regulation adopted under it.

Sec. 05.40.080. ENFORCEMENT OF REGULATIONS. The attorney general shall enforce the regulations adopted under this chapter. Violation of a regulation adopted under this chapter is punishable under AS 05.40.300.

Sec. 05.40.090. APPLICATION FOR LICENSE FOR A GAMBLING ENTERPRISE.

(a) Gambling may be conducted only under a license issued by the board.

(b) The application for a license for a gambling enterprise must include

(1) the name and address of the applicant;

(2) the location of the premises where gambling is to be conducted under the license;

(3) the games, gaming devices, or other gambling activity to be conducted under the license;

(4) the names of all persons directly or indirectly interested in the gambling enterprise and the nature of each person's interest;

(5) other information and details that the board requires,

(c) The applicant shall post a bond in the amount determined by the board for payment of fees, taxes, and net proceeds under this chapter.

(d) The board may not issue a license to a person who

(1) has been convicted of a crime defined in AS 05.40.010(c);

(2) failed to pay a fee, a tax, or proceeds due to the board or a municipality at the time of application;

(3) failed to disclose, misstated, or attempted to mislead the board as to a material fact in an application for a license under this chapter;

(4) has been convicted of violating a regulation of the board.

Sec. 05.40.100. ISSUANCE AND RENEWAL OF LICENSES FOR GAMBLING ENTERPRISE. (a) A license for a gambling enterprise is issued to a person for a period of one year and is not transferable to another person.

(b) A separate license for gambling enterprise is required for each premises where gambling is conducted. A license is valid only for the premises listed on the license and is not transferable to another premises. Only one license may be issued for each premises where gambling is conducted.

(c) A license issued under this chapter is renewable for successive one-year periods. The board shall renew the license for a gambling enterprise if the licensee

(1) is in good standing with the board as to all licenses currently held by the licensee; and

(2) has paid all fees, taxes, and proceeds due to the board or a municipality for all licenses held by the licensee at the time of renewal.

Sec. 05.40.110. GAMBLING ENTERPRISE LICENSE. (a) Subject to AS 05.40.090(b) - (d), the board shall issue a gambling enterprise license to a municipality, to a state agency, or to a person who holds a beverage dispensary license issued under AS 04.11.090 for the conduct of poker and other card games and the operation of slot machines as specifically listed on the license.

(b) A municipality, a state agency, or a person who holds a beverage dispensary license issued under AS 04.11.090 may apply to the board for a license authorizing the conduct of games and other gambling activities in addition to those set forth in subsection (a). The board shall issue a license to a municipality, to a state agency, or to a person who satisfies the requirements of this chapter and the regulations of the board. In issuing licenses under this subsection, the board shall promote economic development, free competition, the public health, safety and morals, and the general welfare of the state, and the stability and success of gambling.

(c) The suspension, revocation, or transfer of the beverage dispensary license for the premises subject to a license issued under this section immediately suspends the license issued under this section.

(d) A license issued under this section authorizes the licensee to conduct games and other gambling activities as specifically listed on the license.

Sec. 05.40.120. POSTING OF LICENSE. A license for a gambling enterprise shall be posted in a conspicuous location on the premises by the licensee.

Sec. 05.40.130 WORK PERMIT (a) Each person employed by a gambling enterprise shall obtain a work permit issued by the board before conducting or otherwise participating in the conduct of gambling under this chapter.

(b) Records acquired by the board relating to applications for and issuance of work permits are confidential, but may be released to a law enforcement agency.

(c) The board may not issue a work permit to a person convicted of a crime described in AS 05.40.010(c).

(d) The board shall refuse to issue or renew a work permit to an applicant who has

(1) failed to disclose, misstated, or attempted to mislead the board as to a material fact in an application for issuance or renewal of a work permit;

(2) failed to comply with the regulations of the board;

(3) committed, attempted, or conspired to commit a crime of moral turpitude, embezzlement, or larceny against an employer.

Sec. 05.40.140. RECORDS OF THE BOARD. Records of the board are public records and are subject to public inspection except as otherwise provided by this chapter or by regulations of the board.

Sec. 05.40.150. PROCEEDS. (a) If the license for a gambling enterprise is issued to a state agency, the state agency shall transmit the net proceeds of the gambling enterprise to the board.

(b) If the license for a gambling enterprise is issued to a municipality, the municipality shall transmit 50 percent of the license fees set forth in (c) of this section to the board.

(c) Except as provided in (d) and (e) of this section, if the license for a gambling enterprise is not issued to a state agency or to a municipality, the licensee shall transmit to the board a license fee based upon all the gross revenue of the licensee as follows:

Three percent of all the gross revenue of the licensee which does not exceed \$50,000 per calendar month;

Four percent of all the gross revenue of the licensee which exceeds \$50,000 per calendar month and does not exceed \$134,000 per calendar month; and

Five and three-fourths percent of all the gross revenue of the licensee which exceeds \$134,000 per calendar month.

(d) If the license for the gambling enterprise is not issued to a state agency or to a municipality and if the license is issued for a gambling enterprise that is located within a municipality, the licensee shall transmit 50 percent of the license fees set forth in (c) of this section to the board.

(e) If the license for the gambling enterprise is not issued to a state agency or to a municipality and if the license is issued for a gambling enterprise that is located within a municipality, the municipality may impose fees on the gambling enterprise equal to 50 percent of the license fees set forth in (c) of this section.

ARTICLE 2. GAMBLING WITHIN MUNICIPALITIES.

Sec. 05.40.200. GAMBLING WITHIN A MUNICIPALITY. Except as provided in AS 05.15, gambling is not allowed within a municipality if the voters of the municipality have not approved a referendum or initiative authorizing gambling within the municipality under AS 29.35.610.

ARTICLE 3. MISCELLANEOUS PROVISIONS.

Sec. 05.40.300. PROHIBITED ACTS AND PENALTIES. (a) It is a class A misdemeanor to

(1) violate or fail to comply with a provision of this chapter a regulation adopted under this chapter, if no effect on the outcome of a game or event that is the subject of a bet was intended;

(2) record, report, or register a wager or to gamble except under the provisions of this chapter;

(3) gamble or to permit a person to gamble if the person is under the age of 21.

(b) Violation of this chapter or a regulation adopted under this chapter with intent to affect the outcome of a game, a gaming device, or other gambling activity licensed under this chapter is a class C felony.

Sec. 05.40.310. ADMINISTRATIVE PROCEDURE ACT. The operations of the board are subject to AS 44.64 (Administrative Procedure Act), except as otherwise provided in this chapter.

Sec. 05.40.320. CONFLICT OF INTEREST ACT. The board is subject to AS 39.50 (conflict of interest).

#### ARTICLE 4. GENERAL PROVISIONS.

Sec. 05.40.900. DEFINITIONS. In this chapter

(1) "board" means the Alaska Gambling Board;

(2) "gambling" means an activity in which a person stakes or risks something of value upon the outcome of a game 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;

(3) "gambling enterprise" means a business established and licensed for the purpose of conducting gambling under this chapter;

(4) "game" means a game played with cards, dice, equipment or a mechanical, electromechanical, or electronic device for money, property, checks, credit, or a representation of value, including faro, monte, roulette, keno, fan-tan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, poker, chuck-a-luck, Chinese chuck-a-luck (dai-shu), wheel of fortune, chemin de fer, baccarat, pai gow, beat the banker, panguigui, slot machine, a banking or percentage game or other game or device approved by the board, but does not include games played with cards in private homes or residences where a person does not make money for operating the game, except as a player;

(5) "gaming device" means equipment or a mechanical, electromechanical or electronic contrivance, component, or machine used remotely or directly in connection with a game that affects the result of a wager by determining wins or loss;

(6) "Gross revenue" means the total of all:

(a) Cash received as winnings;

(b) Cash received in payment for credit extended by a licensee to a patron for purposes of gaming; and

(c) Compensation received for conducting any game in which the licensee is not party to a wager, less the total of all cash paid out as losses to patrons and those amounts paid to purchase annuities to fund losses paid to patrons over several years by independent financial institutions.

(7) "parimutuel" means a form of wagering on the outcome of a race in which those who wager personally purchase tickets of various denominations on a participant in the race and all wagers for each race are pooled and held by the licensee conducting the meet for distribution; when the outcome of the race has been decided, the licensee conducting the meet distributes the percentage of the total wagers determined by the board to holders of tickets on the winner.

\* Sec. 3. AS 11.66.280(2) is amended to read:

(2) "garbling" 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. or by the Alaska Gambling Board under AS 05.40.

\* Sec. 4. AS 11.66.280(4) is amended to read:

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

(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 operations 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 [AS 05.15.210(15)], except that, for purposes of this

paragraph, no application for a permit (LICENSE) under AS 05.15 (AS 05.15.210(15)) is required to be considered a qualified organization; and

(D) is not licensed under AS 05.40;

\* Sec. 5. AS 18.65.080 is amended by adding a new subsection to read:

(b) Before appointment or employment, the Department of Public Safety shall investigate and ascertain whether

(1) a person appointed by the governor to serve as a member of the Alaska Gambling Board under AS 05.40 has been convicted of a crime described in AS 05.40.010(c);

(2) a member of the staff of or person employed by the Alaska Gambling Board, an applicant for a license for a gambling enterprise, or an applicant for a work permit has been convicted of a crime under the laws of the state or another jurisdiction.

\* Sec. 6. AS 29.35 is amended by adding new sections to read:

ARTICLE 9. GAMBLING WITHIN MUNICIPALITIES.

Sec. 29.35.600. GAMBLING PERMITTED. Except as authorized under AS 05.15, gambling may not be conducted within a municipality unless a majority of the voters of the municipality approve a referendum or initiative authorizing gambling.

Sec. 29.35.610 LOCAL OPTION ELECTION. (a) The following question may be placed before the voters of the municipality:

"Shall gambling be permitted in ... (name of municipality)?"

(b) The question set out in (a) of this section may be placed before the voters of the municipality by the legislative body of the municipality or by initiative petition. Notwithstanding AS 29.26.130(b)(1) and (2), an initiative petition shall be signed by a number of voters equal to five percent of the number of votes cast in the last regular election held before the petition was issued.

(c) If a majority of the voters vote "yes" on the question set out in (a) of this section, gambling may be conducted within the municipality under terms of a license issued by the Alaska Gambling Board.

Sec. 29.35.620. LOCAL OPTION ELECTIONS BY MUNICIPALITIES WITHIN BOROUGHS. 29.35.620 The rights of the voters of a municipality located within a borough to a binding election under AS 29.35.610 shall not be affected by a vote on the same subject by all the voters of the borough.

Sec. 29.35.630. FEES ON GAMBLING WITHIN MUNICIPALITIES. (a) If a license for a gambling enterprise issued under AS 05.40.110 is not issued to a state agency or to a municipality, and is located within a borough which has voted to permit gambling pursuant to AS 29.35.610, the governing body of the borough may impose by ordinance the fees set forth in AS 05.40.150(e).

(b) If a license for a gambling enterprise issued under AS 05.40.110 is not issued to a state agency or to a municipality, and is located within a borough which has not voted to permit gambling pursuant to AS 29.35.610, the governing body of the municipality within which the gambling enterprise is located may impose by ordinance the fees set forth in AS 05.40.150(e).

Sec. 29.35.640. APPLICATION. AS 29.35.600 - 29.35.650 apply to home rule and general law municipalities.

Sec. 29.35.650 DEFINITIONS. In AS 29.35.600 - 29.35.650 "gambling," "gambling enterprise," and "game" have the meanings given in AS 05.40.900.

\* Sec. 26. AS 29.50.200(b) is amended by adding a new paragraph to read:

(49) Alaska Gambling Board (AS 05.40.010)

\* Sec. 27. AS 44.62.330(a) is amended by adding a new paragraph to read:

(55) Alaska Gambling Board (AS 05.40.010).

\* Sec. 28. INITIAL COMMISSION APPOINTMENTS. The governor shall make the initial appointment of members of the Alaska Gambling Board within 30 days after the effective date of this Act.

Sen. Pourchot  
March 7, 1990

COMPARISON OF VARIOUS GAMING LAWS

	<u>FEEES</u>	<u>TAX</u>	<u>USE OF FUNDS</u>
<u>SB 263</u>	\$200/device \$100/bar owner \$1000/distributor	15% net income	device fee and net income split 2/3 state GF, 1/3 local govt; other fees all to state
<u>MONTANA VIDEO</u>	\$100/device/state \$100/device/local \$1000/distributor \$1000/manufacturer	15% net income	1/3 to state GF 2/3 to local govt
<u>NEVADA VIDEO</u>	\$250/device	If fewer than 15 machines: \$180 each for first 5, \$360 each additional  If more than 15 machines: \$80 each plus 3% first \$50,000 gross revenues, 4% next \$85,000, 6% any additional	state GF
<u>ALASKA PULLTABS</u>	\$1000/distributor \$500/manufacturer	3% gross receipts less prizes	state GF
<u>ALASKA COIN-OP DEVICES</u>	\$240/device \$50/distributor	none	device fee 50% state GF, 50% local; distrib- utor fee state GF

Sponsor  
Sub.

effort to be more specific about what  
is & isn't allowed

& effort to be conservative about what  
is allowed

For ex: max bets & winnings have been kept  
low \$2/100

Ex: license  
bar owner —  
lose ABC license?

stiffer penalties have been established

& other controls have been ~~to~~ applied

Ex: - machine testing - age 21  
- max 20 machines/bar  
- bars only

Perhaps most signif change is that  
muni's have been given option of  
by ordinance - prohibiting video gaming  
in bandaies.

Revenue collection aspect much like before  
-\$200/yr/denue      -\$1000/yr/distributor  
-\$15% net income      -\$100/yr/operator  
except 1/3 taxes → muni's that have gaming.

-tech. am.

Sen State Affairs

3-6-90

Panchot  
Falks  
Kelly  
Welling

Pat extremely limited gaming  
substantial benefits - private & public sector  
ahead of time - don't intend to move

Coffey CHARR support  
S. Dakota, MT. Pennsylv. considering.  
emphasizing gross revenue (i.e. prt. sector benefit)  
alcohol industry responsible  
meanwhile costs up. } - changed hours  
- more socially responsible  
- TAM program  
This = alternative source of income

Mayor Missoula - "positive impact"  
support local option  
voluntary tax

Jim Fisk, Kodiak - support (Member VFW.)  
(Gaming Commission)  
- Want bill to also regulate games of chance & skill.  
- Want House & Sen members on Commission - Gov. shouldn't be able to appoint all.  
- Don't let DCEO Commissioner serve if convicted felon.  
- Don't let person have both distributor & operator license.  
- something about max. bet ---  
- something about allowing plenty of time for machines to be tested. Commission needs "control."

Dan Thompson Fbx = coin op. machine distributor  
Ugc 2/3 muni, 1/3 state.

Randall Burns, DCEO -- neutral  
Ugc think about impact on charitable gaming - pull-tabs are being sold in many bars. Video games would cut into "their deal."  
Fiscal note conservative.

Larry Hackemiller, CHARR - sells pulltabs in bars. Impact on pulltabs won't be from video gaming, but from DCE's position. <sup>3rd party</sup> vendors!! -> would disallow sale of pulltabs in bars  
-> thinks immediate neg. impact on pulltabs until novelty of video games wears off.

Support. Support muni. option.

Pat - Don't expect passage this session - but is goal in trying to perfect.

- machines in existence now

3.7.90

SB 263

Dan Coffey:

- Supports video gaming / 4 on ferries
- Supports "local option" in this bill
- Voluntary taxation

Jim Fisk:

Amendments proposed

① Page 1, Line 23, 24

• Initial Appointment

① House minority

① " majority

① Senate minority

① " majority

② STRIKE Page 2, Line 1  
except for the commissioner of  
economic development

③ Anyone who is a distributor  
may not hold a license.

④ Follow Nevada

⑤ Page 6, Line 17-18  
set date

PAT:

Response to

① purposefully avoided

② Prior felony

Page 2

Dan Thompson - FBX

- in support - is in coin operated business

Randall Burns:

- No position paper
- Impact on charitable gaming
- pull tabs a hassle, bars would probably opt for video gaming.

Larry Hackiwstark?

- Position paper on vendors from Commissioner shows more problems for charitable gaming
- In support.

Jim Fisk

- response to Burns for 3rd party vendors.

Pat.

These are "emergency" games  
of chance regulations, now in  
non-emergency format. Note  
that comment period for the  
vendor provision (which would  
substantially curtail the use  
of 3rd party vendors to sell pull-  
tabs) won't ~~be~~ <sup>lose</sup> ~~start~~ until

May, thus allowing the legisla-  
ture time to act. All other  
provisions ~~will be~~ <sup>including no state-wide</sup>  
closes Jan. 8. <sup>sale of pull tabs, like</sup>  
<sup>Bob Thomas</sup>

Public hearing in Anclorage

Dec. 14.

5.

RECEIVED NOV 24 1989

# PROPOSED REGULATIONS

## Authorized Games of Chance and Skill

Notice is given that the Department of Commerce and Economic Development, Division of Occupational Licensing, under authority vested by AS 05.15.060 and AS 05.15.130, proposes to adopt new regulations in Title 12 of the Alaska Administrative Code dealing with operators, pull-tab manufacturing and distribution, pull-tab sales, bingo session limits, prize award limitations, definitions, repeal of regulations in Title 15, Chapter 105, and other provisions, all of which serve to clarify and implement AS 05.15.060 and AS 05.15.130 as follows:

1. 12 AAC 34.200, OPERATOR LICENSE REQUIRED, is a new section which clarifies when an operator is required to be on contract to conduct gaming activities;
2. 12 AAC 34.210, OPERATOR REPORTING REQUIREMENTS, is a new section which clarifies operator reporting requirements;
3. 12 AAC 34.220, OPERATOR RECORD KEEPING REQUIREMENTS, is a new section which clarifies operator record keeping requirements;
4. ARTICLE 2. PULL-TAB MANUFACTURING AND DISTRIBUTION, is a new article which addresses the manufacturing and distribution of pull-tabs, including new state identification labeling requirements. This article includes the following sections:

12 AAC 34.300	STANDARDS FOR CONSTRUCTION OF PULL-TABS
12 AAC 34.310	PULL-TAB SERIES ASSEMBLY AND PACKAGING
12 AAC 34.320	MANUFACTURER DISTRIBUTION
12 AAC 34.330	STATE IDENTIFICATION LABELING
12 AAC 34.340	MANUFACTURER'S MONTHLY REPORT
12 AAC 34.350	PULL-TAB DISTRIBUTOR LICENSING APPLICATION
12 AAC 34.360	DISTRIBUTOR'S MONTHLY REPORT
12 AAC 34.370	PURCHASE OF PULL-TABS BY LICENSED DISTRIBUTORS
12 AAC 34.380	SALE OF PULL-TABS BY A LICENSED DISTRIBUTOR
12 AAC 34.390	PULL-TAB TAX

*every pull-tab in a game must be sold at the same location*

5. 12 AAC 34.400, LIMITATION ON PULL-TAB SALES, is a new section which defines what is considered a game or series of pull-tabs and clarifies the intent of AS 05.15.187(b);
6. 12 AAC 34.500, BINGO SESSION LIMIT, is a new section which expands the number of bingo sessions allowed per month which can be conducted by a permittee and the number of sessions allowed when conducted by an operator;
7. 12 AAC 34.900. PRIZE AWARD LIMITATIONS, is a new section which clarifies the statutory and regulatory limitations on payment of prize awards for bingo and all other authorized games;
8. 12 AAC 34.990. DEFINITIONS, is a new section established to define terms used in this chapter, including, but not limited to, the definition of a permittee, pull-tab, and pull-tab game;

9. 15 AAC 105.110(5), which set a bingo session limit of nine per month, is repealed;
10. 15 AAC 105.330, which set restriction on the distribution of pull-tabs, is repealed;
11. 15 AAC 105.350, which established an additional prize award limitation, is repealed.

Copies of the proposed regulations may be obtained by writing to the Division of Occupational Licensing address indicated below or by telephoning (907) 465-2537.

Notice is given that any person interested may make written comments relevant to these proposed regulations by writing to Kevin Henderson, Regulations Specialist, Division of Occupational Licensing, P.O. Box D-LIC, Juneau, AK 99801, so that those comments are received no later than MONDAY, JANUARY 8, 1990. 2534 Kelsey will call

Notice is also given that oral or written comments can be made during any of the hearings listed below:

TELECONFERENCE  
 Legislative Information Offices  
 in Bethel, Juneau, Ketchikan,  
 Kodiak, Kotzebue, Mat-Su and Nome

Tuesday, December 12, 1989  
 9:00 a.m. to 12:00 p.m.

KENAI/SOLDOTNA  
 Kenai Peninsula Borough  
 Assembly Chambers  
 144 N. Binkley, Soldotna

Wednesday, December 13, 1989  
 1:00 p.m. to 3:00 p.m.

ANCHORAGE  
 Egan Convention Center  
 Space 2, Lower Level  
 555 W. 5th Avenue

Thursday, December 14, 1989  
 9:00 a.m. to 12:00 p.m.

FAIRBANKS  
 Noel Wein Library  
 Auditorium  
 1215 Cowles Street

Friday, December 15, 1989  
 9:00 a.m. to 12:00 p.m.

All hearings will continue only as long as there are people to testify, and will not be extended past the ending times indicated above.

This action is not expected to require an increased appropriation.

After the deadline stated above, the Department of Commerce and Economic Development may adopt regulations within the scope of this notice, without further notice, or may decide to take no action on them.

*Randall P Burns*  
 Randall P. Burns, Director  
 Division of Occupational Licensing

DATE: 11/16/89

# PROPOSED REGULATION

## Authorized Games of Chance and Skill

Notice is given that the Department of Commerce and Economic Development, Division of Occupational Licensing, under authority vested by AS 05.15.060 and AS 05.15.130, proposes to adopt a new regulation in Title 12 of the Alaska Administrative Code which defines who may and may not sell pull-tabs on behalf of a permittee. This regulation serves to clarify and implement AS 05.15.060, AS 05.15.122, AS 05.15.130 and AS 05.15.160 as follows:

12 AAC 34.410, AUTHORIZATION TO SELL PULL-TABS, is proposed as a new section to identify who may and may not sell pull-tabs to the public. This section will substantially curtail the current use of third-party "vendors" to sell pull-tabs on behalf of a permittee.

The Department of Commerce and Economic Development does not anticipate adopting this regulation (or a similar one) until after the issue of vendors selling pull-tabs has been addressed by the Legislature in 1990. This proposed regulation reflects the current position of the department on this issue and, if no Legislative changes are made, may be adopted after the written comment deadline stated below.

If one is not attached to this notice, a copy of the proposed regulation may be obtained by writing to the Division of Occupational Licensing address indicated below or by telephoning (907) 465-2537.

Notice is given that any person interested may submit comments relevant to this proposed regulation by writing to ~~Kevin Henderson~~, Regulations Specialist, Division of Occupational Licensing, P.O. Box D-LIC, Juneau, AK 99801, so that those comments are received no later than MONDAY, MAY 21, 1990.

Notice is also given that oral or written comments can be made during any of the hearings listed below:

TELECONFERENCE  
Legislative Information Offices  
in Juneau, Ketchikan, Sitka, Bethel,  
Mat-Su, Kodiak, Kotzebue, and Nome

Tuesday, December 12, 1989  
9:00 a.m. to 12:00 p.m.

KENAI/SOLDOTNA  
Kenai Peninsula Borough  
Assembly Chambers  
144 N. Binkley, Soldotna

Wednesday, December 13, 1989  
1:00 p.m. to 3:00 p.m.

ANCHORAGE  
Egan Convention Center  
Space 2, Lower Level  
555 W. 5th Avenue

Thursday, December 14, 1989  
9:00 a.m. to 12:00 p.m.

FAIRBANKS  
Noel Wein Library  
Auditorium  
1215 Cowles Street

Friday, December 15, 1989  
9:00 a.m. to 12:00 p.m.

All hearings will continue only as long as there are people to testify, but will not be extended past the ending times indicated above.

This action is not expected to require an increased appropriation.

After the deadline stated above, the Department of Commerce and Economic Development may adopt a regulation within the scope of this notice, without further notice, or may decide to take no action on it.

*Randall P. Burns*

Randall P. Burns, Director  
Division of Occupational Licensing

DATE: 11/16/89

PROPOSED REGULATIONS  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
DIVISION OF OCCUPATIONAL LICENSING

12 AAC is amended by adding a new chapter to read:

12 AAC 34.410. AUTHORIZATION TO SELL PULL-TABS. (a) No person may sell pull-tabs to the public on behalf of a permittee, unless that person is

(1) an active member of the organization holding the permit on whose behalf the pull-tabs are being sold, where

(A) the member receives no compensation or consideration for selling the pull-tabs for the organization, and

(B) no expenses for allowing the pull-tab sales to be conducted are charged against the organization holding the permit;

(2) a paid employee of a permittee;

(3) a licensed operator under contract to a permittee; or

(4) a paid employee of a licensed operator.

(b) Except as described in (a)(4) of this section, a pull-tab operator may not use another person to sell pull-tabs on the operator's behalf. (Eff. / / , Register )

Authority: AS 05.15.060  
AS 05.15.130  
AS 05.15.187  
AS 05.15.210

PROPOSED REGULATIONS  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
DIVISION OF OCCUPATIONAL LICENSING

12 AAC is amended by adding a new chapter to read:

CHAPTER 34.  
GAMES OF CHANCE AND SKILL

Article

1. Operators (12 AAC 34.200 -- 12 AAC 34.220)
2. Pull-tab manufacturing and distribution (12 AAC 34.300 -- 12 AAC 34.390)
3. Pull-tab games (12 AAC 34.400)
4. Bingo games (12 AAC 34.500)
5. General provisions (12 AAC 34.900 -- 12 AAC 34.990)

ARTICLE 1.  
OPERATORS.

12 AAC 34.200. OPERATOR LICENSE REQUIRED. (a) Except as provided in (b) of this section, an operator licensed under AS 05.15.122, must be retained on contract when any one of the following is true of the gaming activity being conducted:

(1) a person manages, supervises, or in anyway is in charge of or responsible for conducting gaming activities on behalf of one or more permittees, including a person who receives compensation or other consideration for providing gaming services; or

(2) except where operators are prohibited by municipal ordinance under AS 05.15.124, or in communities that have a population of under 5,000, two or more permittees join to conduct gaming activities, including the shared use of employees or gaming equipment.

(b) Nothing in this section prohibits a permittee from conducting gaming on its own behalf without the services of an operator. (Eff. / / , Register )

Authority AS 05.15.060  
AS 05.15.122  
AS 05.15.130  
AS 05.15.210

12 AAC 34.210. OPERATOR REPORTING REQUIREMENTS. An operator shall comply with all monthly, quarterly, and annual reporting requirements of AS 05.15 and 15 AAC 105. (Eff. / / , Register )

Authority: AS 05.15.060  
AS 05.15.122  
AS 05.15.130  
AS 05.15.165

12 AAC 34.220. OPERATOR RECORD KEEPING REQUIREMENTS. An operator shall comply with all record keeping and accounting requirements of AS 05.15 and 15 AAC 105. (Eff. / / , Register )

Authority: AS 05.15.060  
AS 05.15.122  
AS 05.15.130  
AS 05.15.165

ARTICLE 2.  
PULL-TAB MANUFACTURING AND DISTRIBUTION.

12 AAC 34.300. STANDARDS FOR CONSTRUCTION OF PULL-TABS.  
(a) A pull-tab must

(1) be constructed so that it is impossible to identify whether it is a winning or losing pull-tab, either by revealing the numbers or symbols or by the size and shape of the pull-tab, until it has been played by the purchaser;

(2) be constructed using at least a two-ply paper stock construction so that it is completely opaque;

(3) have conspicuously printed on the face or cover sheet, the series number and the name of the manufacturer;

(4) show the consumer how to open the pull-tab to determine the winning symbols or numbers.

(b) Pull-tabs within a single pull-tab series must be

(1) of the same length, width, and thickness, not varying by more than 3/64 of an inch at any dimension;

(2) color coded when individual series numbers are repeated.

(c) A manufacturer shall establish its own method of game protection which allows the manufacturer or the department to determine, after the pull-tab has been played, the difference between an authentic winning pull-tab and a nonwinning, altered or forged pull-tab. The manufacturer shall submit to the department a letter explaining the method of game protection used and shall keep the department informed of any changes.  
(Eff. / / , Register )

Authority: AS 05.15.060  
AS 05.15.181

12 AAC 34.310. PULL-TAB SERIES ASSEMBLY AND PACKAGING. (a) A pull-tab manufacturer shall manufacture, assemble, and package a pull-tab series so that any winning pull-tab, or the approximate location of any winning pull-tab, cannot be determined, in advance of actually opening the pull-tab.

(b) Winning pull-tabs must be evenly distributed and mixed among all other pull-tabs in the series.

(c) When a pull-tab series is packaged in more than one container, the entire series of individual pull-tabs must be thoroughly mixed and distributed evenly among the containers so that the location or approximate location of a winning pull-tab or concentration of winning pull-tabs cannot be determined.

(d) A container of pull-tabs must be clearly marked on the outside with the name of the manufacturer, the pull-tab series number, and the name of the pull-tab game enclosed.  
(Eff. / / , Register )

Authority: AS 05.15.060  
AS 05.15.181  
AS 05.15.187

12 AAC 34.320. MANUFACTURER DISTRIBUTION. (a) A pull-tab manufacturer may only distribute those pull-tabs which itself designed, constructed, assembled and packaged. A manufacturer may not sell pull-tabs that were purchased from another pull-tab manufacturer.

(b) A pull-tab series may not be sold or distributed unless the manufacturer has meet the state identification labeling requirements of 12 AAC 34.330.

(c) A packing slip must be included with each shipment of pull-tabs, which shows the

- (1) name of the manufacturer;  
(2) series number;  
(3) date the series was packaged;  
(4) name or identification of the person who packaged the series; and  
(5) state identification number. (Eff. / / , Register )

Authority: AS 05.15.060  
AS 05.15.181  
AS 05.15.185

12 AAC 34.330. STATE IDENTIFICATION LABELING. (a) The department will provide all licensed pull-tab manufacturers with state identification label and accompanying records entry labels, each pre-glued and imprinted with the same unique number or combination of letters and numbers, to be used for identifying and tracking the sale and distribution of pull-tabs present in the state.

(b) A pull-tab series may not be sold or distributed unless a state identification stamp has been affixed to the flare card accompanying that series and the state identification number is recorded in accordance with this section.

(c) Before shipping a pull-tab series to a licensed distributor, the manufacturer shall

(1) adhere the state identification stamp onto the lower right hand corner of the flare card accompanying that series of pull-tabs;

(2) write, in permanent ink, the series number of the pull-tabs being shipped into the the space provided on the state identification stamp;

(3) adhere a record entry label to the monthly report required under AS 05.15.181(e) and 12 AAC 34.340; and

(4) adhere a record entry label to the invoice sent to the distributor purchasing the pull-tabs.

(d) The remaining record entry labels must be included in the pull-tab series shipment for use by the distributor, operator, or permittee in accordance with other provision of this chapter. (Eff. / / , Register )

Authority: AS 05.15.060  
AS 05.15.181  
AS 05.15.185

12 AAC 34.340. MANUFACTURER'S MONTHLY REPORT. (a) The monthly report required under AS 05.15.181(e), must be submitted on forms provided by the department and must identify the following information for each pull-tab series shipped since the last report filed under this section:

- (1) name of each game;
- (2) series number;
- (3) state identification number;
- (4) name of the distributor to which it was sold.

(b) The state identification number required in (a)(3) of this section, must be verified on the monthly report form by adhering a records entry label to the space provide.  
(Eff. / / , Register )

Authority: AS 05.15.060  
AS 05.15.181

12 AAC 34.350. PULL-TAB DISTRIBUTOR LICENSE APPLICATION REQUIREMENTS. An applicant for a pull-tab distributor license under AS 05.15.183 shall submit to the department

- (1) a completed application on the form provided by the department;
- (2) the fees as required by AS 05.15.183(b); and
- (3) all other information or documentation requested by the department at the time of application.  
(Eff. / / , Register )

Authority: AS 05.15.060  
AS 05.15.183

12 AAC 34.360. DISTRIBUTOR'S MONTHLY REPORT. (a) The monthly report required under AS 05.15.183(d), must identify the following information for each pull-tab series distributed since the last report filed under this section:

- (1) name of the game;
- (2) serial number;
- (3) state identification number;
- (4) date distributed;
- (5) manufacturer;
- (6) price per ticket;
- (7) ticket count;
- (8) gross pay out;
- (9) ideal net; and,

(10) name of the permittee or operator to which the pull-tab series was sold; and

(11) any other information the department may require.

(b) The state identification number required in (a)(3) of this section, must be verified on the monthly report form by adhering a records entry label. (Eff. / / , Register )

Authority: AS 05.15.060  
AS 05.15.183  
AS 05.15.185

12 AAC 34.370. PURCHASE OF PULL-TABS BY LICENSED DISTRIBUTORS. A distributor shall order, purchase, or receive pull-tabs directly from a pull-tab manufacturer who adheres to the requirements of the National Association of Fundraising Ticket Manufacturers (NAFTM). A distributor may not order, purchase, or receive pull-tabs from another distributor. (Eff. / / , Register )

Authority: AS 05.15.060  
AS 05.15.183

12 AAC 34.380. SALE OF PULL-TABS BY A LICENSED DISTRIBUTOR. (a) Each pull-tab series sold by a distributor must be supported by a written invoice delivered to the purchaser that identifies the

- (1) name of the game;
- (2) serial number;
- (3) state identification number;
- (4) date of the sale;
- (5) name and permit number of the permittee who purchased the pull-tabs;
- (6) name and license number of the operator, if applicable;
- (7) dollar amount charged for that series; and
- (8) amount of pull-tab tax charged to the purchaser.

(b) The state identification number required in (a)(3) of this section, shall be identified on the invoice by adhering the records entry label. The remaining record entry label must be included in the pull-tab series shipment to the operator or permittee for their use in meeting other recordkeeping requirements.

(c) A pull-tab distributor may distribute pull-tabs only to permittees or licensed operators. (Eff. / / , Register )

Authority: AS 05.15.060  
AS 05.15.183

12 AAC 34.390. PULL-TAB TAX. (a) A permittee or operator conducting gaming activities on behalf of a permittee shall pay, to the distributor, a pull-tab tax of 3 percent of the ideal net of the pull-tab series. Payment of the pull-tab tax is due to the distributor at the time the pull-tab series is distributed to the permittee or operator. The tax must be paid to the department by the distributor, whether actually collected or not, at the time of filing the monthly report required under AS 05.15.183(d) and 12 AAC 34.370.

(b) In this section, "ideal net" means the total amount of receipts that would be received if every individual pull-tab ticket in the series was sold at its face value less the total predetermined prize amounts available to be paid out in the series exclusive of any additional prize for the last pull-tab sold. (Eff. / / , Register )

Authority: AS 05.15.060  
AS 05.15.183  
AS 05.15.184

### ARTICLE 3. PULL-TABS GAMES.

12 AAC 34.400. LIMITATION ON PULL-TAB SALES. Each pull-tab or ticket in a pull-tab game must have the same serial number and, in accordance with AS 05.15.187(b), the game may not be sold at more than one location during the same day. In 12 AAC 34 and 15 AAC 105, "pull-tab game" has the same meaning as "pull-tab series." (Eff. / / , Register )

Authority: AS 05.15.060  
AS 05.15.130  
AS 05.15.187  
AS 05.15.210

### ARTICLE 4. BINGO GAMES.

12 AAC 34.500. BINGO SESSION LIMIT. A permittee which conducts bingo games on its own behalf without the services of an operator may hold up 14 bingo sessions per month. A permittee which uses an operator to conduct bingo games on its behalf is limited to 11 sessions per month. (Eff. / / , Register )

Authority: AS 05.15.060  
AS 05.15.187  
AS 05.15.210

ARTICLE 5.  
GENERAL PROVISIONS.

12 AAC 34.900. PRIZE AWARD LIMITATIONS. (a) A permittee conducting authorized games on its own behalf is limited to the following prize award limitations per calendar year:

(1) bingo, \$840,000; and

(2) the aggregate of all other authorized games, \$1,000,000.

(b) An operator conducting authorized games on behalf of a permittee is limited to the following prize award limitations per permittee per calendar year:

(1) bingo, \$660,000; and

(2) the aggregate of all other authorized games, \$500,000. (Eff. / / , Register )

Authority: AS 05.15.060  
AS 05.15.130  
AS 05.15.180

12 AAC 34.990. DEFINITIONS. In this chapter

(1) "permittee" means a municipality or qualified organization who has a current and valid permit issued by the department to conduct authorized games of chance and skill provided for under AS 05.15.

(2) "pull tab" means a card or a single folded or banded ticket, the face of which is covered to conceal a number, symbol, or set of numbers and symbols. A person who has purchased a pull tab compares the numbers, symbols, or combinations of numbers and symbols revealed and compares them with the numbers, symbols, or combinations of numbers or symbols which have been designated in advance and at random as prize winners. A pull-tab is also defined as a card which confers an additional right to the purchaser to participate in a lottery for additional prizes.

(3) A "completed pull-tab game" means that all of the individual pull-tabs in a series, having the same serial number, have been purchased and played. (Eff. / / , Register )

Authority: AS 05.15.060  
AS 05.15.130

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TITLE 15 REPEALS

15 AAC 105.110(5) is repealed:

(5) Repealed / / . (Eff. 9/7/60, Register 2; am 11/6/76, Register 60; am 10/1/88, Register 107; am / / , Register )

Authority: AS 05.15.060

15 AAC 105.330 is repealed:

15 AAC 105.330. PULL-TAB DISTRIBUTOR'S LICENSE; DISTRIBUTION RESTRICTION. Repealed / / .

15 AAC 105.350 is repealed:

15 AAC 105.350. ADDITIONAL PRIZE LIMITATION. Repealed / / .

# HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892



RECEIVED OCT 19 1989

October 17, 1989

Dear Colleague:

I was recently solicited to sign a letter requesting that the Department of Commerce and Economic Development not issue its emergency regulations implementing the law governing charitable gaming operations in Alaska. The reason for this was to allow Lottery Alaska to continue to operate.

The emergency regulations were an attempt on the part of DCED to issue fair warning (key parts were not effective until January 1, 1990) to Lottery Alaska and other organizations, prior to enforcing provisions of the law that would have immediately put them out of business. Far from being onerous or unfair, the regulations would have provided a safety net for some organizations while leveling the playing field for all participants.

If the emergency regulations are not adopted, DCED must immediately enforce the law, including specific provisions that prohibit the use of vendors and statewide pulltab games.

While I have no knowledge of any intentional wrongdoing by Lottery Alaska, the fact is what they are doing violates state law and the clear intent of the Charitable Gaming Reform Act of 1988 (HB 299). If the people of Alaska want lotteries of this type then the appropriate course of action is to adopt statutory law to so provide. Existing law does not do so and was specifically intended and designed not to do so.

Absent compelling constitutional reasons, I believe requesting that an existing law not be enforced is generally not good public policy. The law is the law and due process and "equal justice under the law" require that it be enforced as written and as intended by the Legislature. There is no significant question in this case that existing practice violates existing law, only that some parties believe the existing law is wrong and should not be enforced. I believe such a request is not appropriate under the circumstance.

The House Labor and Commerce Committee will continue its work on charitable gaming legislation next session and I know by working together we can successfully deal with any remaining issues. I look forward to your assistance in fine tuning existing law to better serve Alaska's charitable gaming community.

Sincerely,

A handwritten signature in cursive script that reads "Dave Donley".

Representative Dave Donley, Chair  
House Labor and Commerce Committee

cc: All Legislators

dd/gb

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P. O. BOX D  
JUNEAU, ALASKA 99811-0800  
PHONE: (907) 465-2500

October 16, 1989

Honorable Pat Pourchot  
Alaska State Senate  
3111 C Street, Suite 506  
Anchorage, AK 99503

RECEIVED OCT 19 1989

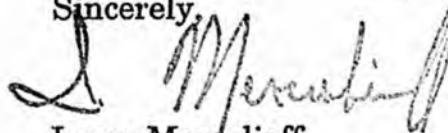
Dear Senator Pourchot:

A copy of the enclosed letter was mailed to all permittees, operators, distributors, and others involved in charitable gaming in Alaska.

I want to make sure that you are aware of the department's recent actions in its regulation of the charitable gaming program. The department remains committed to addressing the major issues outlined in our September 27, 1989 letter to charitable gaming licensees, a copy of which was sent to you late last month.

I look forward to working with you to achieve the department's goals of good fiscal accountability and consistent regulation and enforcement for all those involved in the gaming industry. Please feel free to write or call my office if you have any questions or wish to discuss these issues.

Sincerely,



Larry Mercurieff  
Commissioner

LM/wfd1187W  
101489a  
Enclosure: 10/12 charitable gaming letter

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P. O. BOX D  
JUNEAU, ALASKA 99811-0800  
PHONE: (907) 465-2500

October 12, 1989

Dear Gaming Participant:

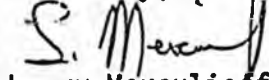
This is to advise you that the emergency gaming regulations adopted by the Department of Commerce and Economic Development, Division of Occupational Licensing, will not take effect as originally scheduled. However, our letter of September 27 remains the department's position on the issues facing the charitable gaming industry in this state.

Because of the department's concerns for the state of charitable gaming activities in Alaska and the pressing need for enforcing accountability and reporting, the division will issue public notice of the proposed regulations in early November, with public hearings to be held during the second week in December.

The changes and the clarifications included in the proposed regulations will be held in abeyance pending adoption of regulations through the usual process. For example, permittees that may have begun to hold additional bingo sessions in anticipation of adoption of the emergency regulations must now restrict themselves to the nine (9) -- not fourteen (14) -- bingo sessions allowed under current regulations.

The department is conducting a review of its enforcement options. An important asset in this review will be the Charitable Gaming Advisory Group that I will appoint to assist the department.

Sincerely,

  
Larry Mercurieff  
Commissioner

LM/fh0253L  
101189a

pull tabs

# AIRRES

**ALASKA RADIO  
READING SERVICE**

P.O. BOX 202545 • ANCHORAGE, ALASKA 99520-2545 • (907) 258-0000

January 31, 1990

Hon. Pat Pourchot  
P.O. Box V  
Juneau, AK 99811

Dear Sen. Pourchot:

We here at AIRRES, the radio reading service for the blind and print handicapped, have conducted a survey, pertaining to games of chance, among other non-profit organizations. We would like to share the results of this survey with you.

Enclosed, you will find the cover letter that we used for our survey and the results we have compiled from the survey we sent.

One of the obvious aspects, as shown by the survey, is the need for gaming laws to be similar to those of Nevada which eliminate entirely any criminal element from participating in games of chance.

Our survey was conducted statewide with replies from Anchorage, Wasilla, Palmer, Fairbanks, Ketchikan, Homer, Sitka, Juneau, Petersburg, Sand Point, Bristol Bay, Ninilchik, Cordova, Nome, North Pole, Galcha, Kodiak, St. Mary's, Soldotna, Moose Pass, Skagway, Chignik, Douglas, Craig, Nenana, Seward and Dillingham.

We hope that this will be beneficial to you in any legislation that might be forthcoming.

Donald Lutz  
President

ATTENTION!

ALL NON-PROFIT CORPORATIONS:

The Alaska Information Radio Reading Education Service is a non-profit agency which uses Games of Chance and Skill to raise a portion of our funding. Recently, the Alaska Department of Commerce and Economic Development proposed sweeping changes in the charitable gaming regulations. These changes included eliminating the non-profit corporations right to sell pull tabs in multiple locations. We feel that this will severely impact the funding needed by many Alaskan non-profit corporations.

We at AIRRES are asking the Governor to stop these proposed regulations and let the Legislature decide this issue when they convene in January. If your organization is dependent on Games of Chance and Skill for funding, we urge you to join us in protecting your right to sell pull tabs through retail locations; these have been dubbed by the State as third party vendors. Please contact your legislators through Public Opinion Messages, telephone calls, and hand written letters.

AIRRES is also concerned that there is a strong possibility that the criminal element is infiltrating the operations of Games of Chance and Skill in Alaska. We recommend that you urge the State to prohibit the participation of anyone with a felony conviction in the operation or regulation of Games of Chance and Skill in Alaska.

A good model is in those laws and regulations governing gaming in the State of Nevada. In an effort to preserve our right to gain revenues from the sale of pull tabs through retail locations we are collecting statistics on the number of non-profit corporations which use Games of Chance and Skill to fund their operations. We hope to use this information to convince the legislature that all of us in non-profit corporations depend on this to fund our worthwhile causes through Games of Chance and Skill.

Please fill out the following questionnaire.

Thank you.

QUESTIONNAIRE

1. Name of non-profit organization:

2. Address:

3. Telephone Number:

TOTAL RESPONSES: 83

---

1. Do you hold a Games of Chance and Skill Permit? YES: 44  
NO: 39

2. Are you receiving revenues from same? YES: 33  
NO : 35  
NO ANSWER: 15

3. Do you use an operator to place your permit? YES:11  
NO:50  
NO ANSWER:22

4. Do you place your own permit? YES:29  
NO:27  
NO ANSWER :27

5. Do you plan to apply for a Games of Chance and Skill permit in the future?  
YES:48 NO ANSWER: 7  
NO:22  
MAYBE:6

6. Are you interested in legislation to keep the criminal element out of gaming in the state of Alaska?  
YES: 72 NO ANSWER:7 Three of these who answered  
NO 4 No, answered no to all questions.

7. Are you interested in legislation to protect your right to sell pull tabs in retail locations?  
YES:53  
NO: 21  
MAYBE:2  
NO ANSWER: 7

We urge you to participate in the process of forming laws and regulations governing Games of Chance and Skill in Alaska so that your programs may continue to exist and expand.

NRN

pull tabs

RECEIVED JAN - 3 1990

THE POP SHOPPE  
1060 ASPEN  
FAIRBANKS, ALASKA 99709  
451-6865 OR 456-5688

December 21, 1989

State of Alaska  
Senators and Representatives  
Box V  
Juneau, Alaska 99811

To All Senators and Representatives:

Subject: Charitable Gaming (My Industry):

The State has gone through astronomical growth here in excess of \$300 million in 1989. The state is five years behind the industry in this field. We have no real expertise at state regulatory level. This is a must and needed now. I support regulations and bonding. I do not support Washington rules. This is Alaska.

I also would like to see a small amount of common sense used by regulatory bodies. The reform laws written by legislators can never cover all topics involved in regulations and enforcement of any law.

You and I need to know Commissioners have the tools to enforce and regulate intent.

The State has been at least guilty of selective enforcement, selective bonding requirements, allowing Lottery Alaska to start up a illegal game then changing their mind and trying to stop it.

No consistency in reporting requirements and forms need to comply.

Changing from Department of Revenue to Department of Commerce is no excuse for the lack of enforcement or guidance by the State. Past practices and reporting methods have been totally improperly managed and supervised by State level employees.

Having State employees personal opinions on regulations or the law is in no way proper. These decisions should come from legislators intent or Attorney General opinions on legality of regulations.

I personally have been openly lied to by those in charge.

The State has cost me and others in this industry thousands by lack of control.

As I supported Reform Bill 299 in 1988 I feel the State has only made a total disaster in charitable gaming.

Legislative intent was lost. Personal opinions are in effect now.

The States 3% tax is a large amount. No one in this industry minds supporting our State in this manner, but feel our payments would only be larger if it was not necessary to educate and fight stupidity on State level.

The Department of Commerce should write regulations. They should also encourage business in Alaska, not restrict it.

I personally have been through hearings five times since reform on regulations. To date we have NONE.

How much has this cost the people of Alaska?

How much has the State cost the Non-Profits I work for? In my... company it will be over \$200,000 in 1989 alone.

The Department of Commerce needs help now, before this atrocity of justice ends up in court.

The State policies currently cost thousands of loss per day. My industry cannot wait for State employees to find a place to pass the buck again any longer.

I will support any bill that requires regulations of any law being reviewed by Senate and House before wasting time with hearings. If regulations do not follow your intent, you can kill them.

My company records and accounting practices are always open to any Senator or Representative who wishes to understand Charitable Gaming and how it really works. As a board member of Alaska Charitable Gaming Assn. we offer any assistance needed.

As you return to session shortly, please look in to industry and state needs in this matter. I will support any common sense revisions needed.

Fellow Alaskan for Alaska.

Sincerely,



Edward A. Dilley  
The Pop Shoppe  
E & A Services  
Alotto

THE POP SHOPPE  
1060 ASPEN  
FAIRBANKS, ALASKA 99709  
451-6865 OR 456-5688

State of Alaska  
Mr. Steve Cowper, Governor  
Juneau, Alaska 99811

Subject: Charitable Gaming

Dear Mr. Cowper:

It is my understanding you will introduce legislation on bonding for gaming. I would like to know the particulars on your bill before introduction. Also give you my opinions on this matter.

I am at present the largest bonded operator in the state with \$250,000 in cash posted as Certificates of Deposit. Let me assure you I find this totally ridiculous and costly. Some State licensed operators have not a dime of bonding. No parity in state enforcement has been used in the past here!

Yes bonding needs to be lowered and written so as it is at least attainable by all.

Along with lowering of cash requirements, a system of qualifications and back ground checks may be just as valuable. A long standing solid citizen is not as likely to risk their reputation in a small state. Business back ground is also an important asset, as record keeping and accountability is an important factor. No system is fool-proof.

As large operators can only run 20 to 40 permits a year, small groups need a market to raise funds also. The third party vendor issue is very important factor to these groups. I support their position in this need, with some type of affordable control and accounting to the state.

The State has been a total adversary to fund raising in past policies.

We have charitable gaming laws in Alaska set forth by our legislators. The State should regulate and supervise this set of laws, not fight the concept.

Mr. Cowper, this is gambling. Lets treat it like it is. We in the industry have made profits for our groups and the State in spite of our constant fight with The Department of Revenue and Department of Commerce.

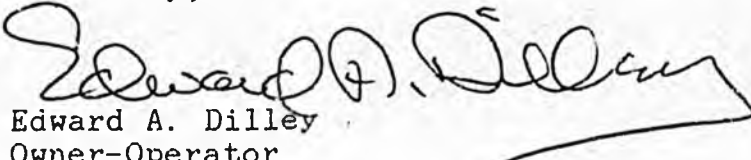
Gaming will generate 300+ million in sales this year alone. The States 3% is not a small number. This should be encouraged to

grow, not stifled in time of need.

Ask your commissioners to regulate and control, but use common sense if possible.

Thanks for your time.

Sincerely,



Edward A. Dilley  
Owner-Operator  
The Pop Shoppe

Proceeds Paid to Charity 1989

1st Quarter 1989

Ketchikan Youth Football	14,448.05
Douglas Lyons	43,674.18
Festival Fbks. 84	9,096.13
Fbks. Amateur Hockey	18,168.26
	<u>85,386.62</u>

2nd. Quarter

Juneau Youth Football	18,431.35
Southeast Pan Handlers	9,870.40
Ak. Native Sisterhood	9,847.02
Ktkn. Youth Services	18,877.37
North Pole Rotary	1,381.65
Fbks. Youth Soccer	26,187.72
	<u>84,595.51</u>

3rd. Quarter

Alaska Gold Kings	9,327.37
North Pole Rotary	14,919.84
Douglas Indian Assn.	2,771.71
Juneau Shotokan Karate	9,679.29
Sports Unlimited	8,471.68
American Legion #25	4,164.65
Ktkn. Senior Services	14,613.59
Ak. Native Sisterhood	3,173.92
Sons of Norway	9,067.27
Ktkn. Killer Whales	2,828.39
Ak. Native Sisterhood	447.00
	<u>79,464.71</u>

RECEIVED JAN - 3 1990

THE POP SHOPPE  
1060 ASPEN  
FAIRBANKS, ALASKA 99709  
451-6865 OR 456-5688

December 21, 1989

State of Alaska  
Senators and Representatives  
Box V  
Juneau, Alaska 99811

To: All Senators and Representatives:

Subject: 1990 Ballot Initiatives

Thank you for your time and service to Alaskans.

Regarding the proposed Ballot Initiatives:

Legalized Gambling:

I stand on the fence here. It would be a good revenue source for the State, but would hurt Non-Profit Gaming at present. With built in safety factors to cover non-profit and shared revenues I will support this bill. I have spent much time and money looking at Asian markets for this. It will be very good for our State. State regulation and enforcement is the key.

Marijuana:

Must be illegal in any size or form if we have any chance to protect our children.

Interstate Phone Competition:

Yes, if GCI or any other company will service all of Alaska, not just prime markets and be willing to do this from the beginning not added later down the line. Alascom has served this state and people by bringing all modern and up to date service to us. We were in the dark a few years back. Alascom made my phone work all the time. I will support them until a company wants to compete in all markets evenly.

Alaska Railroad:

The Alaska Railroad is the sole reason freight rates have come down to where Alaska business's can now compete in worldwide markets and the lower 48. I am totally against any hampering of their business procedures. Trucking Companies have had their profits too long, they must compete or leave.

Page 2

State Employees:

The State employees are totally responsible for their salary problems. Most treat fellow Alaskans like Moose Droppings. They think that they have signed up for a check and retirement program, forgetting their supposed to work for us in return.

No negotiations, no raises.

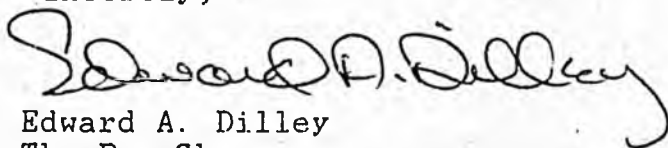
Permanent Fund:

Leave it alone. No raids for any reason. Once you start the flow it will never stop. If the State really wants money back for General fund needs, disband the fund. Put a 1/3 33% tax per person on the return. The normal person will vote for this as their take is larger than the States. Return the 33% to the General Fund or State fund and use the profits to run the State, no strings attached.

This will bust our economy wide open. Bail out Alaska Housing and all business in-general. It will also allow the State a chance to fund needed projects and prove to the people of Alaska they can do the job of management.

Do make it retroactive to 1989. List of qualified residents.

Sincerely,



Edward A. Dilley  
The Pop Shoppe  
E & A Services  
Alotto

*Superseded*

Sen. Pourchot  
April 13, 1989

SECTIONAL ANALYSIS  
SB 263, RELATING TO VIDEO GAMING DEVICES

Sec 1-2 Exempt video gaming, as authorized in SB 263, from criminal code

THE FOLLOWING PROVISIONS ARE AMENDMENTS TO AS 43.35, "COIN OPERATED DEVICES", IN THE DEPARTMENT OF REVENUE. THEY WOULD APPLY ONLY TO VIDEO GAMING DEVICES:

- Sec 3 Tax is 25% of net income, paid quarterly to Dept. Revenue  
Civil penalty of \$1000/day for failure to pay  
Define "net income" as money paid into device less money paid out in cash for credits
- Sec 4 Current coin-operated device license doesn't apply
- Sec 5 Requirement that revenues from coin-operated devices be shared with municipalities doesn't apply
- Sec 6 Amends definition of "coin-operated device class 3" to include video gaming devices
- Sec 7 Defines "video gaming device" as draw poker or keno  
Devices can't pay money directly to the winner
- Sec 8 Distributor of video device must be licensed:  
Annual fee \$500, 1-year resident, no felony or gambling convictions, U.S citizen (all of these requirements except the fee apply currently to distributors of coin-operated devices)

Distributor can install machines only on certain premises licensed by the ABC Board -- bar, club, pub, common carrier

THE FOLLOWING PROVISIONS OF THE EXISTING COIN-OPERATED DEVICE LAW WOULD APPLY TO VIDEO DEVICES ALSO:

Annual fee per device \$240, to be paid by distributor  
Must be age 18 to play  
Department may adopt regulations

THE FOLLOWING PROVISIONS OF THE EXISTING CRIMINAL CODE WOULD APPLY TO UNLAWFUL USES OF VIDEO DEVICES:

Class C felony (maximum \$50,000 fine, 5-year sentence) for promoting gambling in the first degree or possession of gambling records in the first degree; Class A misdemeanor (maximum \$5,000 fine, 1-year sentence) for promoting in second degree, possessing records in second degree, or possessing a gambling device; Class B misdemeanor (maximum \$1,000 fine, 90-day sentence) for engaging in unlawful gambling

STATE OF ALASKA  
THE LEGISLATURE

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


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 12, 1990

SUBJECT: SSSB 263, relating to video gaming devices --  
sectional analysis of bill

TO: Senator Pat Pourchot

FROM: Jack Chenoweth  
Legislative Counsel 

The principal provisions of the bill are set out in bill section 1 establishing the five-member Alaska Gaming Commission. The proposed gaming commission--there has been the suggestion that the group be retitled the "Alaska Video Gaming Commission" to more accurately describe its limited jurisdiction--is established, with commission responsibilities limited to regulation and oversight of video gaming devices. Provision is made for two forms of license--the distributor's license (to cover manufacturers, assemblers, producers, and distributors of video gaming devices), and the premises operator's license (essentially, persons responsible for premises licensed for alcoholic beverages sales in which devices are installed).

In summary:

AS 05.45.010 establishes the commission--four public members and the commissioner of commerce and economic development or the commissioner's designee--and sets qualifications of membership and provisions governing commission organization and quorum requirements.

AS 05.45.020 sets the term of office of the public members at three years and authorizes appointments to vacancies.

AS 05.45.030 limits removal of the public members to instances of cause, and prescribes the procedure applicable to a member's removal. In lieu of removal, the governor may suspend a member pending the member's removal.

Members are to receive, under AS 05.45.040, the usual compensation of travel and per diem payable for membership on a state board or commission.

AS 05.45.050 sets out the duties of the Alaska Gaming Commission. In addition to the licensing and supervisory functions identified in subsection (a), the commission's duties include, notably, all revenue collecting functions arising out of production of revenues from video gaming under taxes and fees levied. To fulfill its duties, the commission has the powers enumerated in AS 05.45.050(b).

The commission is given authority to employ persons (AS 05.-45.060). The attorney general is assigned responsibility to enforce regulations adopted by the commission (AS 05.45.-070). Records of the commission are made public (AS 05.-45.080). The commission's activities are made subject to the state Administrative Procedure Act, AS 44.62 (AS 05.-45.090). The state Conflict of Interest Act is made applicable to the commission and its members (AS 05.45.100).

The Gaming Commission is authorized to issue two types of licenses: a [video gaming] distributor's license (AS 05.-45.200), and a [video gaming] premises operator's license (AS 05.45.210). Both require annual renewal and payment of the amount of the fee specified. The procedures applicable to application for a new license or renewal of a license, set out in AS 05.45.220, identify the minimum standards applicable for licensure.

Under AS 05.45.230, a person holding a premises operator's license may install or allow another to use video gaming devices. That installation is limited to places in which alcoholic beverages are sold, under license of the Alcoholic Beverage Control Board, for premises carrying one of the various types of licenses identified. The section establishes a limit of 20 video gaming devices on a licensed premises.

AS 05.45.300 directs the Gaming Commission to test and approve prototypes of video gaming devices before permitting their installation. That testing may be done under contract, and the costs are to be borne by the device's distributor.

AS 05.45.310 authorizes the commission to inspect the devices, including review of the audit trail of the device to assure compliance with statutory payout requirements.

AS 05.45.320 sets regulations on who may play. Only persons who are 21 years of age or older are permitted to play video gaming devices, and persons may play only during the hours that a premises licensed to sell alcoholic beverages (in which the video gaming devices are installed) are open to do business.

The bill limits wagers--a maximum amount of \$2 per device per play (AS 05.45.330)--and prescribes payouts--over the life of the device, 80 percent payout of the value of amounts played, with a maximum actual payout of \$100 per game (AS 05.45.340).

The Gaming Commission's enforcement powers are defined by AS 05.45.400. Suspension or revocation of a license is authorized for violations of offenses identified in the section, with necessary due process rights recognized.

AS 05.45.500 levies and collects taxes and other revenues on video gaming devices. The tax is \$200 a year plus 15% of net machine income, the latter payable quarterly. A civil penalty is imposable by the commission for a person's failure to make timely filings and payments of taxes and fees when due.

AS 05.45.510 authorizes a partial payment of the proceeds to the municipality in which the machine is operated. The payment is subject to legislative appropriation.

The last section of bill section 1, AS 05.45.900, sets out necessary definitions, including the definition of the term "video gaming device." Note that definition incorporates a general description of the nature of the games allowed (draw poker, keno, and others as may be determined by the commission by regulation).

Bill sections 2 - 6 make related changes in existing laws applicable to regulation of games of chance and contests of skill. The amendment made by bill section 2 would exclude a person from a game of chance/contest of skill permit if the person has had a video gaming license revoked or suspended. The amendment made by bill section 3 imposes the same limitation on a game of chance/contest of skill operator's

license. That made by bill section 4 prohibits a game of chance/contest of skill licensee from employing a person whose video gaming license has been revoked or suspended. The amendments made in bill sections 5 and 6 impose on a permit applicant a related disclosure requirement, and limit the commissioner's authority to issue a game of chance/contest of skill activity permit.

Amendments applicable to criminal law provisions are set out in bill sections 7 - 10. The material added by bill section 7 makes tampering with the machines "criminal mischief in the second degree," a class C felony. Bill sections 8 and 9 exclude from the definitions of "gambling" and "gambling device" (for purposes of law enforcement) the playing of a regulated video gaming device and the device itself. A definition of "video gaming device" for purposes of AS 11 is incorporated by bill section 10.

The public members appointed to serve on the Gaming Commission may not have been convicted of certain crimes. See AS 05.45.010(c). The material added by bill section 11 directs the Department of Public Safety to conduct the required investigation.

In bill sections 12 - 16 are set out the powers and limitations on the powers of municipalities relating to video gaming devices:

The "home rule binder," a limitation on regulation by home rule charter municipalities, is set out in bill section 12.

Such regulation of a video gaming device as a municipality is permitted is set out in bill section 13. A municipality may prohibit their installation but, if installation is permitted, operation must conform to applicable state law. Municipal licensing and regulation is not permitted.

The substantive changes made in bill sections 14 and 15 exempt video games from taxation under a municipal sales tax.

For purposes of the Municipal Code, AS 29, bill section 16 incorporates a definition of "video gaming device."

Bill section 17 adds employees of the Gaming Commission to the state's partially exempt service.

Senator Pat Pourchot  
Page 5  
February 12, 1990

Bill section 18 requires the commission members to comply with the Conflict of Interest requirements of AS 39.50.

State law, generally, assigns tax administration and revenue raising responsibilities to the Department of Revenue under applicable provisions of AS 43. This measure makes the Gaming Commission responsible for administration of the revenue laws applicable to video gaming devices. To accommodate that assignment of responsibility and to avoid a double taxation of video gaming device operations, the amendments made by bill sections 19 - 22 incorporate various exceptions from state tax laws administered by the Department of Revenue.

Bill section 23 adds the Gaming Commission to the list of boards and commissions whose activities are subject to and guided by the Administrative Procedure Act.

Bill section 24 is an uncodified provision requiring the governor to make the initial Gaming Commission appointments within 120 days.

The Act is given a July 1, 1990, effective date by bill section 25.

JBC:lmb  
L9/120

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

RECEIVED NOV 30 1989

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

MEMORANDUM

November 27, 1989

SUBJECT: SSSB 263, relating to video gaming devices

TO: Senator Pat Pourchot  
ATTN: Sandra Schubert

FROM: Jack Chenoweth  
Legislative Counsel

The enclosed draft incorporates virtually all of the changes requested in your November 8 memo supplemented by your November 21 phone call.

Let me briefly note the significant features of the measure in the following discussion.

The principal regulatory provisions of the bill, appearing in bill section 1, remain in Title 5, "Amusements and Sports," albeit as a new chapter, AS 05.45. (I think there is a good argument, however, that since video gaming devices may only be placed in establishments licensed to sell certain alcoholic beverages, the material could as well be placed in Title 4.) The proposed gaming commission--there has been the suggestion that the group be retitled the "Alaska Video Gaming Commission," to more accurately describe its limited jurisdiction--is established, with commission responsibilities limited to regulation and oversight of video gaming devices. Since the commission has few, if any, policy alternatives to consider and the scope of the commission's authority is more circumscribed than the alternative suggested by Senator Zharoff's SB 311 (which you asked that I use as a model), I reduced board membership from the previous measure to three persons to try to make the board approach more workable in light of the narrower jurisdiction. (Of course, if the commission's role is ever expanded in the way suggested in SB 311 and by others, the commission's size could be expanded and the choice of placement in Title 5 would, in retrospect, appear quite sound.)

There is provision for forms of license--the distributor's license (to cover manufacturers, assemblers, producers, and

distributors of video gaming devices), and the operator's license (essentially, persons responsible for premises licensed for alcoholic beverages sales in which devices are installed).

*OK*  
The commission's duties are substantially as in the earlier bill, with some cribbing of language from SB 311, augmented by responsibilities for inspection and testing of new devices (though I note there is no authority requested for periodic re-inspection). The statute would also limit who may play (must be 18, though, as I noted, since the legal age to drink is 21, there may be confusion as to whether 18 - 20 year olds may be on premises to play these devices despite provisions in Title 4 saying that they should not be there), when one may play (in accordance with liquor sales hours under state and municipal law), the nature of the games allowed (draw poker, keno, and others as may be determined by the commission by regulation), and the video gaming device wager limitation and payout requirements. (Look carefully at proposed AS 05.15.330 and satisfy yourself that it really says clearly what is needed to be said; I'm not sure I understand the payout--credit or cash--provisions well enough to provide sufficiently clear language. And, incidentally, why such a large payoff limitation distinction between poker and keno, and can an operator make enough from \$2.00 bets to be able to payoff on \$100 or \$800 jackpots??)

I cannot leave discussion of bill section 1 without sharing some questions.

*OK*  
Violation of AS 05.15 (games of chance and contests of skill) is made grounds for denial, suspension, or revocation of a license under AS 05.45. Should the opposite be true: Should violation of AS 05.45 (this chapter) be grounds for disciplinary action under AS 05.15? Or are the two chapters so substantially different that there should be no relationship between the two?

*delete*  
The mandatory one year residency requirement continues to prove troublesome. I left it in the provisions applicable to distributor's licenses (AS 05.45.200(c)) but did not include it in the provisions applicable to premises operator's licenses (AS 05.45.210) simply because there are bar owners here who, I would guess, have not been residents for a year, and the distinction it would make between qualifying and non-qualifying applicants for operator's licenses could cause equal protection problems. As it is, why is the one-

year residency requirement included at all? You may want to reconsider how it is included, at least to secure a measure of consistency.

*transfer  
sell  
license*

As I understand, only persons holding certain licenses issued under AS 04 may apply for and obtain premises operator licenses under AS 05.45. Assuming one holds both licenses and proposes to sell the premises license under AS 04, what do you want to do about the AS 05 license? Terminate it automatically? Allow the holder to sell it to the new holder of the premises licensed under AS 04? In other words, what is the "fit" between these two licenses?

As with the earlier bill, this draft imposes a U.S. citizenship requirement as a condition of licensing. U.S. citizenship is not a condition imposed of liquor licensees under AS 04, so there is an inconsistency. Its inclusion in AS 05.45 may raise equal protection problems.

Finally, note that nothing in this draft makes a violation of AS 05.45 a criminal offense. That oversight ought to be corrected.

The criminal provisions are set out in bill sections 2 - 4. New to this draft is the provision making tampering with the machines "criminal mischief in the second degree," a class C felony as you had indicated.

In bill sections 7 - 11 are set out the powers and limitations on the powers of municipalities relating to video gaming devices:

(1) The limitations on municipal regulation are set out in bill section 8.

(2) Where you spoke of exemption from municipal taxation, I assumed you intended exception from the petty, troublesome, penny-ante taxes on machine transactions, and so limited the exception to sales taxes. (Surely there is no reason to exempt the machines themselves from municipal property taxation: nothing else in the furnishings and fixtures of a bar or liquor store enjoys such worthy status.) This exemption is set out in bill sections 9 (borough sales tax exemption) and 10 (city sales tax exemption). Bill section 7 imposes the home rule binder, thereby making the Title 29 provisions applicable to all municipalities.

As in the bill introduced, bill sections 14 - 19, amending or adding to provisions of AS 43, contain the revenue generating aspects of the legislation:

MT - (1) As to fees, per your request, distributors pay for their licenses, operators get a free ride (which seems somewhat unfair, but understandable considering the source of the request), but persons in whose premises devices are placed pay the \$200 per device fee added by bill section 14, so maybe it equalizes itself.

(2) The revenue distribution to municipalities provisions are amended per instruction (see proposed AS 43.35.050(c)).

OK ✓  
Not included in the draft is any reference to the Alcoholic Beverage Control Board having authority to revoke or suspend licenses under AS 04 for violations involving video gaming devices under AS 05. Do you really want a second board or commission to have a finger in all this? If so, since the memo does not say, what "certain violations" should be covered under that grant of authority?

I also don't know whether I've adequately addressed the question of who must bear the burden of collecting and paying the fee. Since the distributors pay a license fee (but operators do not pay a premises operators license fee), but operators cough up different payments under AS 43, it seemed to me that each should bear its own responsibility. The whole issue of fees payable seems terribly muddled in all this-- enough that I think most legislators won't understand it-- and I think it should be reconsidered for clarity and accuracy rather than for shifting the incidence of responsibility.

\*

As you may know, I will be available Wednesday, December 6, at the Anchorage Legislative Information Office to take bill requests, and would make time to meet with you to review this legislation on that day (or on Thursday, December 7, if the preceding date is inconvenient for you or if my appointment schedule on the 6th becomes too crowded). Please let the LIO folks know whether you want to review the legislation at that time.

Since I haven't a clue as to what I'm dealing with, is there any chance of at least seeing one of these machines?

The administrative arm of the Nevada State Gaming Commission is the State Gaming Control Board. It has several divisions and 350 employees. My contacts:

Enforcement Division	Agent Healy	(702) 688-1115
Tax and License	Chuck Anderson	687-6570
Audit	Alison Stroh	486-6460
Electronic Services	Ed Allen	486-6646
Background Investigation		
Head Office (Administration)		687-6530

Video machines are considered slot machines under the law, and regulated likewise.

Annual tax \$250/machine.

Two types license:

Restricted = anyone with less than 15 machines. Simply pay quarterly fee of \$45/machine for the first 5 machines; \$90/machine for each additional. 1,750 restricted licenses in Nevada.

Nonrestricted = anyone with more than 15 machines. Quarterly fee of \$20/machine plus 3% of the first \$50,000 of gross revenues; 4% of the next \$85,000; 6% of anything above \$135,000 (July 1, 1989 will be 6.25%). 290 licenses.

Distributor's license: \$500/yr.

Manufacturer's license: \$1,000/yr.

Gambling license (for the individual who has the machines): no fee, but must pay for background investigation. This individual is responsible for paying the taxes.

Machines are allowed most places. Can be restricted by local ordinance. Total 125,000 machines statewide.

Gross revenues (of which state got a percentage) from slots last year \$2.8 billion. No separate records for video machines specifically.

A model of each machine must be tested before it can be used in the state -- lab has 3 engineers; \$150,000 worth of test equipment. Test about 20 new devices a year. Test randomness, ability to cheat the machine, and auditing functions -- no official written machine standards. Testing process takes about 4 weeks; device must then be field tested 60 days and approved by the Gaming Commission.

Each machine has meters that track "coins in", "coins out", and "the drop" (overflow). Licensees must maintain statistical analysis reports (most slots are computerized). Audit Division does compliance checks, based on theoretical percentages calculated by the manufacturer.

# ALASKA STATE LEGISLATURE

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CHAIR

ETHICS COMMITTEE,  
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Senator Pat Pourchot

## MEMORANDUM

TO: Tam Cooke, Director  
Legal Services Division

FROM: Senator Pat Pourchot

RE: Redraft of SB 263 - Video Gaming

DATE: November 8, 1989

*Jack Chenoweth*

I have decided to try yet another permutation of the video gaming proposal, which I think will require a complete restructuring of SB 263. Please prepare a draft sponsor substitute incorporating the following changes. Contact Sandra Schubert of my staff (in Anchorage, 561-7623) if you have questions or need further information.

- I. Under SB 263, video gaming is regulated by the Department of Revenue as a "coin-operated device class III". Redraft to establish a Gaming Commission to regulate as a form of legalized gambling. Pattern the Gaming Commission after SB 311, with duty to license, regulate, and supervise video gaming.
- II. Redraft Sec. 3 regarding proceeds and tax to provide:
  - A. \$200/year per machine, shared equally between state and local government
  - B. 15% of net machine income, shared 2/3 to the state and 1/3 to local government
- III. Redraft Sec. 7 as follows:
  - A. page 4, line 19: After "keno" add "as defined by rules of the Gaming Commission"
  - B. page 4, line 22: Delete "deposits money to the user" and insert "dispenses coins, cash, tokens, or anything else of value"
- IV. Redraft Sec. 8 regarding licenses for distributors of video gaming devices to:
  - A. Specify that the license is required for any person to assemble, produce, manufacture, or supply machines or associated equipment
  - B. Increase the license fee to \$1000
  - C. Require that the distributor file a gaming machine application for each machine with the Gaming Commission

V. ✓ Redraft Sec. 9 to change the effective date to July 1, 1990

VI. Incorporate the following additional provisions:

- ✓ A. Specify that play is limited to persons age 18 and older
- ✓ B. Require that, prior to having video machines installed on the premises, each bar owner obtain an "operator's license" from the Gaming Commission. No fee for the license. Same requirements (no felony convictions, etc.) as outlined in Sec. 8 of SB 263
- C. Authorize local governments to prohibit video gaming by ordinance. ✓ Prohibit local government from regulating, licensing, or taxing video gaming and from restricting the number of licenses the Gaming Commission may issue
- D. Specify that no premises may contain more than 20 machines; play is not allowed between the hours of ~~2 a.m. and 8 a.m.~~ each day; *current law* ✓ maximum bet is \$2; maximum payout is \$100 for poker and \$800 for keno; the expected payback value of one credit awarded is to be at least 80% of the value of one credit played
- E. Require that the Gaming Commission inspect and test each new video gaming machine that is manufactured, sold, or distributed for use in the state before the machine is sold, played, or used. Require that the Commission adopt regulations stating the specifications for video machines to be approved. Authorize the Commission to contract with another state for the inspection and testing
- F. Provide penalties, possibly by reference to the existing criminal code. Knowingly manipulating or attempting or conspiring to manipulate the outcome or payoff of a video machine by physical tampering or other interference with the proper functioning of the machine should be a felony. The Gaming Commission should be authorized to suspend and revoke operators' and distributors' licenses and the Alcohol Beverage Control Board should be authorized to suspend or revoke liquor licenses for certain violations

*require manufacturer pay distributor for exam*

*no*