

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6660 SENATE STATE AFFAIRS

1064

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
907-465-2800

LEGISLATIVE AFFAIRS AGENCY


M E M O R A N D U M

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 B]oard." 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

Senator Pat Pourchot

Page 3

February 5, 1990

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 Board]," the very elements that are arguably the essence of video gaming device regulation under SSSB 263.

JBC:lmb

L9/088

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

MEMORANDUM

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:

. . . 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

5 members - in DCED
license / regulate games of chance
contests of skill

1 IN THE SENATE

BY ZHAROFF

2

SENATE BILL NO. 311

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act establishing the Alaska Gaming Commission;
7 and providing for an effective date."

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

9 * Section 1. AS 05.15 is amended by adding new sections to read:

10 ARTICLE 4. ALASKA GAMING COMMISSION.

11 Sec. 05.15.300. ALASKA GAMING COMMISSION. (a) The Alaska
12 Gaming Commission is established in the Department of Commerce and
13 Economic Development. The commission is composed of five members
14 appointed by the governor, subject to confirmation by the legislature.

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

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

19 (1) a felony; or

20 (2) an offense under this chapter, AS 11.66.200 -
21 11.66.280, or a comparable provision of municipal, state, or federal
22 law.

23 (d) A person may not serve as a member of the commission until
24 the investigation required under AS 18.65.080(b) is completed.

25 (e) The commission shall elect a chair from its membership.

26 (f) Three members of the commission constitute a quorum for the
27 transaction of business.

28 Sec. 05.15.310. TERM OF OFFICE. Members of the commission serve
29 staggered terms of four years. A vacancy is filled by appointment for

1 the unexpired term. A member of the commission holds office until a
2 successor is appointed and qualifies.

3 Sec. 05.15.320. REMOVAL AND SUSPENSION OF MEMBERS. (a) The
4 governor may remove a member for cause, including incompetence,
5 neglect of duty, or misconduct in office. A member being removed for
6 cause shall be given a copy of the charges and afforded an opportunity
7 to publicly present a defense in person or by counsel upon not less
8 than 10 days' notice. If a member is removed for cause, the governor
9 shall file with the lieutenant governor a complete statement of all
10 charges made against the member and the governor's findings based on
11 the charges, together with a complete record of the proceedings.

12 (b) The governor may immediately suspend a member for a viola-
13 tion of law or for misconduct in office pending removal from office
14 under (a) of this section.

15 Sec. 05.15.330. COMPENSATION AND PER DIEM. Members of the
16 commission do not receive a salary for their service on the commission
17 but are entitled to per diem and travel expenses authorized for state
18 boards and commissions under AS 39.20.180.

19 Sec. 05.15.340. DUTIES AND POWERS OF THE COMMISSION. (a) The
20 commission shall

21 (1) license, regulate, and supervise games of chance and
22 contests of skill under this chapter;

23 (2) hire staff as needed to enforce and administer this
24 chapter; and

25 (3) adopt regulations necessary to carry out the provisions
26 of this chapter.

27 (b) The commission may

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

1 (2) compel the production of documents showing the receipts
2 and disbursements of a person licensed to conduct a gaming enterprise;
3 (3) appoint a hearing officer to conduct a hearing required
4 by this chapter or by a regulation adopted under it.
5 Sec. 05.15.350. EMPLOYEES OF THE COMMISSION. Employees of the
6 commission are in the partially exempt service under AS 39.25.120.
7 Sec. 05.15.360. REGULATIONS OF THE COMMISSION. The attorney
8 general shall enforce the regulations of the commission.
9 Sec. 05.15.370. RECORDS OF THE COMMISSION. All records of the
10 commission are public records and subject to public inspection.
11 Sec. 05.15.380. PROCEEDS. Fees and other money received by the
12 commission shall be paid into the general fund.
13 Sec. 05.15.390. ADMINISTRATIVE PROCEDURE ACT. The operations of
14 the commission are subject to the Administrative Procedure Act
15 (AS 44.62).
16 Sec. 05.15.400. CONFLICT OF INTEREST ACT. The commission is
17 subject to AS 39.50 (conflict of interest).
18 * Sec. 2. AS 05.15.010, as amended by Executive Order No. 74, is
19 repealed and reenacted to read:
20 Sec. 05.15.010. ALASKA GAMING COMMISSION TO ADMINISTER CHAPTER.
21 The Alaska Gaming Commission shall administer this chapter.
22 * Sec. 3. AS 05.15.210(6), as amended by Executive Order No. 74, is
23 repealed and reenacted to read:
24 (6) "commission" means the Alaska Gaming Commission;
25 * Sec. 4. AS 11.66.280(2), as amended by Executive Order No. 74, is
26 repealed and reenacted to read:
27 (2) "gambling" means that a person stakes or risks something of
28 value upon the outcome of a contest of chance or a future contingent
29 event not under the person's control or influence, upon an agreement

1 or understanding that that person or someone else will receive some-
2 thing of value in the event of a certain outcome; "gambling" does not
3 include

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

9 (B) playing an amusement device that

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

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

16 (C) an activity authorized under AS 05.15;

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

18 (b) The Department of Public Safety shall investigate and ascer-
19 tain whether a person appointed by the governor to serve as a member
20 of the Alaska Gaming Commission has been convicted of a crime set out
21 in AS 05.15.300(c).

22 — * Sec. 6. AS 39.25.120(c) is amended by adding a new paragraph to read:

23 (21) employees of the Alaska Gaming Commission. *partially exempt service*

24 — * Sec. 7. AS 39.50.200(b) is amended by adding a new paragraph to read:

25 (50) Alaska Gaming Commission (AS 05.15.300). *public employees*

26 — * Sec. 8. AS 44.62.330(a) is amended by adding a new paragraph to read:

27 (55) Alaska Gaming Commission (AS 05.15.300). *admin. adjudication*

28 — * Sec. 9. AS 05.15.210(8) and AS 44.33.020(31) are repealed. *dept = DDE (pull tab etc) doesn't exist??*

29 * Sec. 10. INITIAL COMMISSION APPOINTMENTS. The governor shall make

1 the initial appointment of members of the Alaska Gaming Commission within
2 120 days after the effective date of this Act. The governor shall set the
3 terms of initial members so that two members serve terms of four years, one
4 member serves a term of three years, one member serves a term of two years,
5 and one member serves a term of one year.

6 * Sec. 11. TRANSITION. (a) Regulations relating to games of chance
7 and contests of skill, adopted by the Department of Revenue under authority
8 of AS 05.15 before July 1, 1989, remain in effect until regulations relat-
9 ing to that function that are adopted by the Alaska Gaming Commission under
10 AS 05.15 as amended by this Act, take effect. The Alaska Gaming Commission
11 shall administer the Department of Revenue regulations until its own take
12 effect.

13 (b) Until the Alaska Gaming Commission is appointed, the Department
14 of Commerce and Economic Development shall administer games of chance and
15 contests of skill under AS 05.15 and under the regulations referred to in
16 (a) of this section.

17 * Sec. 12. IMPLEMENTATION OF LEGISLATION. To be consistent with the
18 changes made by this legislation, wherever in AS 05.15 and in regulations
19 adopted under those statutes "Department of Revenue," "department," or
20 "commissioner" is used, they shall be read as referring to the Alaska
21 Gaming Commission or commission when to do so would implement the purposes
22 of this Act. Under AS 01.05.031, the revisor of statutes shall implement
23 this section in the statutes, and, under AS 44.62.125(b)(6), the regula-
24 tions attorney shall implement this section in the administrative regula-
25 tions.

26 * Sec. 13. This Act takes effect July 1, 1989.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

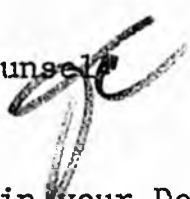
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

2 copies

MEMORANDUM

December 27, 1989

SUBJECT: SSSB 263, relating to video gaming
TO: Senator Pat Pourchot
FROM: Jack Chenoweth
Legislative Counsel



All of the changes requested in your December 22 memo are incorporated in this draft except the second: Because the new chapter (AS 05.45) does not define any criminal offense, inclusion of a reference to "this chapter" in proposed AS 05.45.010(c)(2) is superfluous.

JBC:mi
wkmi5/077

OK
the Class C felony
is picked up
under "felony"

Alaska State Legislature

Changes made

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Legal Division
Attention: Jack Chenoweth

FROM: Senator Pat Pourchot

RE: Re-draft of Sponsor *Video Gaming* Substitute for SB 263 (6-0940J)

DATE: December 22, 1989

Please prepare a new draft of the above referenced bill:

- page 1, line 23 ✓ Increase Commission membership from 3 to 5. Provide for 1 member to be the Commissioner of the Department of Commerce and Economic Development or his designee.
- page 2, line 1 *not needed* After "under", add this chapter. *(no license if violations under this chapter)*
- page 2, line 6 ✓ Increase quorum requirement from 2 to 3.
- page 2, line 28 ✓ Amend AS 05.45.050 to authorize the Commission to do those things currently listed in Sections 19-24 as duties of the Department of Revenue (collect annual device fee and tax, etc.) -- the intent is to make the Commission solely responsible for the administration of video gaming.
- page 4, line 14 ✓ Establish a \$100 annual fee for an operator's license.
- page 5, line 17 ✓ Delete limitation of 10 poker machines per premises.
- page 5, line 22 ✓ After "test", add and approve *(machines)*
- page 6, line 4 ✓ Clarify that the Commission has the power to enforce the collection of taxes through device inspections (i.e. checking the device's audit trail to ensure the proper amount is being paid). Authorize the Commission to "contract with" the ABC Board's current enforcement officers for this purpose.
- page 6, lines 13-22 ✓ Redraft 05.45.330-.340 to clarify that the wager and payout limitations are limitations of the gaming devices themselves.
- page 16, line 9 ✓ Provide for 1/3 of the proceeds, rather than 1/2, to go to municipalities.

Please call me in Anchorage (561-7623) if you have questions or concerns.

need changes:

p. 2, l. 1
p. 5 l. 22
p. 6, l. 13-22

these are changes I called in to legal

6-0940J ✓
Chenoweth
12/14/89

BY SEN. POURCHOT BY REQUEST

DRAFT

1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 263

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Gaming Commission,
7 authorizing the commission to regulate video gaming
8 devices and persons who manufacture, assemble, pro-
9 duce, distribute, and operate them, [classifying video
10 gaming devices as coin-operated devices for purposes
11 of regulation and taxation,] and exempting them from
12 the definition of gambling devices; relating to
13 municipal regulation and taxation of video gaming
14 devices; relating to taxes imposed on and regulation
15 of coin-operated devices; and providing for an effec-
16 tive date."

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

18 * Section 1. AS 05 is amended by adding a new chapter to read:

19 CHAPTER 45. ALASKA GAMING COMMISSION.

20 ARTICLE 1. ESTABLISHMENT AND OPERATION OF COMMISSION.

21 Sec. 05.45.010. ALASKA GAMING COMMISSION. (a) The Alaska
22 Gaming Commission is established in the Department of Commerce and
23 Economic Development. The commission is composed of three members
24 appointed by the governor, subject to confirmation by the legislature.

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

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

29 (1) a felony; or

(2) an offense under AS 05.15, AS 11.66.200 - 11.66.280, or a comparable provision of municipal, state, or federal law.

(d) A person may not serve as a member of the commission until the investigation required under AS 18.65.080(b) is completed.

(e) The commission shall elect a chair from its membership.

(f) Two members of the commission constitute a quorum for the transaction of business.

Sec. 05.45.020. TERM OF OFFICE. Members of the commission serve staggered terms of three years. A vacancy is filled by appointment for the unexpired term. A member of the commission holds office until a successor is appointed and qualifies.

Sec. 05.45.030. REMOVAL AND SUSPENSION OF MEMBERS. (a) The governor may remove a member for cause, including incompetence, neglect of duty, or misconduct in office. A member being removed for cause shall be given a copy of the charges and afforded an opportunity to publicly present a defense in person or by counsel upon not less than 10 days' notice. If a member is removed for cause, the governor shall file with the lieutenant governor a complete statement of all charges made against the member and the governor's findings based on the charges, together with a complete record of the proceedings.

(b) The governor may immediately suspend a member for a violation of law or for misconduct in office pending removal from office under (a) of this section.

Sec. 05.45.040. COMPENSATION AND PER DIEM. Members of the commission do not receive a salary for their service on the commission but are entitled to per diem and travel expenses authorized for state boards and commissions under AS 39.20.180.

Sec. 05.45.050. DUTIES AND POWERS OF THE COMMISSION. (a) The commission shall

1 (1) license, regulate, and supervise video gaming under
2 this chapter;

3 (2) adopt regulations establishing the minimum machine
4 specifications for video gaming devices that may be used in the state;

5 (3) hire staff as needed to enforce and administer this
6 chapter; and

7 (4) adopt regulations necessary to carry out the provisions
8 of this chapter.

9 (b) The commission may

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

12 (2) compel the production of documents showing the receipts
13 and disbursements of a person licensed under AS 05.45.200 or 05.-
14 45.210;

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

17 Sec. 05.45.060. EMPLOYEES OF THE COMMISSION. Employees of the
18 commission are in the partially exempt service under AS 39.25.120.

19 Sec. 05.45.070. ENFORCEMENT OF REGULATIONS. The attorney
20 general shall enforce the regulations of the commission.

21 Sec. 05.45.080. RECORDS OF THE COMMISSION. All records of the
22 commission are public records and subject to public inspection.

23 Sec. 05.45.090. ADMINISTRATIVE PROCEDURE ACT. The operations of
24 the commission are subject to the Administrative Procedure Act
25 (AS 44.62).

26 Sec. 05.45.100. CONFLICT OF INTEREST ACT. The commission is
27 subject to AS 39.50 (conflict of interest).

28 ARTICLE 2. REGULATION OF PERSONS ENGAGED IN VIDEO GAMING.

29 Sec. 05.45.200. DISTRIBUTOR'S LICENSE. (a) A person may not

1 manufacture, assemble, produce, or distribute a video gaming device in
2 this state without a valid video gaming distributor's license issued
3 by the commission. To remain valid, a distributor's license must be
4 renewed annually on or before a date set by the commission.

5 (b) An applicant for a license or renewal of a license under (a)
6 of this section shall pay an annual fee of \$1,000.

7 Sec. 05.45.210. PREMISES OPERATOR'S LICENSE. (a) A person may
8 not install or allow another to use a video gaming device without a
9 valid video gaming premises operator's license issued by the commis-
10 sion. The commission shall refuse to issue a gaming premises opera-
11 tor's license to a person unless the person holds a license described
12 *(certain alcohol licenses)* in AS 05.45.230. To remain valid, a premises operator's license must
13 be renewed annually on or before a date set by the commission.

14 (b) The commission may not charge a fee for a license or renewal
15 of a license issued under (a) of this section.

16 Sec. 05.45.220. LICENSING PROCEDURE. (a) The commission

17 (1) shall refuse to issue a license to a person under
18 AS 05.45.200 or 05.45.210 if the person has been convicted of

19 (A) a felony; or

20 (B) an offense under AS 05.15, AS 11.66.200 - 11.-
21 66.280, or a comparable provision of municipal, state, or federal
22 law;

23 (2) may refuse to issue a license to a person under AS 05.-
24 45.200 or 05.45.210, if the person fails to comply with a provision of
25 this chapter or of a regulation adopted under it;

26 (3) may require an applicant for a license or renewal of a
27 license issued under AS 05.45.200 or 05.45.210 and, if the applicant
28 is a corporation, each shareholder and employee of the corporation, to
29 file an affidavit that the applicant has never been convicted of a

1 crime identified in (1) of this subsection.

2 (b) A person who is denied a license under (a) of this section
3 has the right to a hearing on the commission's decision and may appeal
4 the denial, suspension, or revocation to the superior court.

5 Sec. 05.45.230. INSTALLATION OF VIDEO GAMING DEVICES. (a) A
6 person licensed under AS 05.45.210 may install or allow another to use
7 video gaming devices only in premises that sell alcoholic beverages
8 and for which has been issued

9 (1) a beverage dispensary license under AS 04.11.090;

10 (2) a duplicate beverage dispensary license for additional
11 rooms under AS 04.11.090(e);

12 (3) a club license under AS 04.11.110;

13 (4) a common carrier dispensary license under AS 04.11.180;

14 or

15 (5) a pub license under AS 04.11.220.

16 (b) A person may not install more than 20 video gaming devices
17 or more than 10 video gaming devices that are draw poker machines on
18 any licensed premises.

19 ARTICLE 3. REGULATION OF VIDEO GAMING.

20 Sec. 05.45.300. TESTING OF PROTOTYPE VIDEO GAMING DEVICES. (a)
21 Before a video gaming device is sold or distributed for use in the
22 state, the commission shall test ^{and approve} a prototype of the device to ascer-
23 tain whether a device manufactured to the specifications of the proto-
24 type meets minimum machine specification standards.

25 (b) The commission may contract with another state to fulfill
26 the requirements of (a) of this section.

27 (c) The commission shall require the distributor seeking the
28 examination and approval of a new video gaming device to pay the
29 anticipated actual costs of the examination in advance and, after the

1 completion of the examination, shall refund overpayments or charge and
2 collect amounts sufficient to reimburse the commission for under-
3 payments of actual costs.

4 Sec. 05.45.310. INSPECTION. The commission may provide for
5 regular inspection of video gaming devices that are approved for
6 installation and use under this chapter.

7 Sec. 05.45.320. REGULATION OF PLAY. (a) A person who has not
8 reached the age of 21 years may not use a video gaming device.

9 (b) The operator of premises in which video gaming devices have
10 been installed may allow use of the video gaming devices only during
11 hours when a person may sell alcoholic beverages on the premises under
12 AS 04.16.010 and AS 04.21.010.

13 Sec. 05.45.330. LIMITATION OF WAGER. The maximum amount that
14 may be wagered on a game that is played or simulated by a video gaming
15 device is \$2.00.

16 Sec. 05.45.340. PAYOUT REQUIREMENTS. (a) Each video gaming
17 device shall pay out not less than 80 percent of the value of the
18 amount played during the useful life of the device. Each device must
19 have an electronic accounting device that the commission may use to
20 verify the payout percentage.

21 (b) An operator shall provide a user of the device who is suc-
22 cessful a maximum cash payout of \$100 per game.

REWORK TO CLARIFY THESE ARE MACHINE LIMITATIONS

23 ARTICLE 4. ENFORCEMENT.

24 Sec. 05.45.400. LICENSE TERMINATION. (a) The commission shall
25 suspend or revoke a license issued under AS 05.45.200 or ^{distributor} 05.45.210 ^{premises operator} if
26 the person holding the license has been convicted of

27 (1) a felony; or

28 (2) an offense under AS 05.15, AS 11.66.200 - 11.66.280, or
29 a comparable provision of municipal, state, or federal law.

1 (b) The commission may suspend or revoke a license issued under
2 AS 05.45.200 or 05.45.210 if the person holding the license fails to
3 comply with a provision of this chapter or of a regulation adopted
4 under it.

5 (c) A person whose license is suspended or revoked under this
6 section has the right to notice of and a hearing on the commission's
7 decision and may appeal the suspension or revocation to the superior
8 court.

9 ARTICLE 5. GENERAL PROVISIONS.

10 Sec. 05.45.900. DEFINITIONS. In this chapter,

11 (1) "commission" means the Alaska Gaming Commission;

12 (2) "video gaming device"

13 (A) means an electronic machine that uses a video
14 screen or display and microprocessors to play or simulate the
15 play of the game of draw poker or the game of keno, as defined by
16 regulation of the commission, or of another game authorized by
17 the commission, and that upon insertion of money allows a user by
18 skill or chance to receive

19 (i) free games; or

20 (ii) credits that may be redeemed for cash;

21 (B) does not include a machine that directly dispenses
22 coins, cash, tokens, or anything else of value.

23 * Sec. 2. AS 05.15.060 is amended to read:

24 Sec. ^{games of chance & skill} 05.15.060. REGULATIONS. The department shall adopt regu-
25 lations under the Administrative Procedure Act (AS 44.62) necessary to
26 carry out this chapter covering, but not limited to,

27 (1) the issuance, renewal, and revocation of permits and
28 licenses;

29 (2) a method of ascertaining net proceeds, the

1 determination of items of expense that may be incurred or paid, and
2 the limitation of the amount of the items of expense to prevent the
3 proceeds from the activity permitted from being diverted to non-
4 charitable, noneducational, nonreligious, or profit-making organiza-
5 tions, individuals, or groups;

6 (3) the immediate revocation of permits and licenses au-
7 thorized under this chapter if this chapter or regulations adopted
8 under it are violated;

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

12 (5) the investigation of permittees, licensees, and their
13 employees, including the fingerprinting of those permittees, licens-
14 ees, and employees whom the commissioner considers it advisable to
15 fingerprint;

16 (6) exclusion from participation as a permittee, licensee,
17 or employee of a permittee or licensee, of a person

18 (A) convicted of, in prison for, or on parole for a
19 felony within the preceding five years, or convicted of a crime
20 involving theft or dishonesty or of a violation of a municipal,
21 state, or federal gambling law; or

22 (B) whose video gaming license has been suspended or
23 revoked under AS 05.45;

24 (7) the method and manner of conducting authorized activ-
25 ities and awarding of prizes or awards, and the equipment that may be
26 used;

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

1 bingo games a session to be conducted under a permit;

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

5 (10) the disposition of funds in possession of a permittee
6 or a person, municipality, or qualified organization that possesses an
7 operator's license at the time a permit or a license is surrendered,
8 revoked, or invalidated;

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

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

13 * Sec. 3. AS 05.15.122(c) is amended to read:

14 (c) The department may not issue an operator's license to an
15 applicant if the applicant or a person employed by the applicant in a
16 managerial or supervisory capacity

17 (1) [,] has been convicted of, in prison for, or on parole
18 for a felony within the preceding five years, or has been convicted of
19 a crime involving theft or dishonesty or of a violation of a municipi-
20 pal, state, or federal gambling law; or

21 (2) has had a video gaming license suspended or revoked
22 under AS 05.45.

23 * Sec. 4. AS 05.15.122(d) is amended to read:

24 (d) A licensee may not employ a person in a managerial or super-
25 visory capacity if the person

26 (1) has been convicted of, in prison for, or on parole for
27 a felony within the preceding five years, or has been convicted of a
28 crime involving theft or dishonesty or of a violation of a municipal,
29 state, or federal gambling law; or

1 (2) has had a video gaming license suspended or revoked
2 under AS 05.45.

3 * Sec. 5. AS ^{games chance} 05.15.140(b) is amended to read:

4 (b) In an application for a permit, a municipality or qualified
5 organization shall disclose the name and address of each person re-
6 sponsible for the operation of the activity and whether any person
7 named

8 (1) has been convicted of, in prison for, or on parole for
9 a felony within the preceding five years, or convicted of a crime
10 involving theft or dishonesty or of a violation of a municipal, state,
11 or federal gambling law; [OR]

12 (2) has a prohibited financial interest, as defined in
13 regulations adopted by the commissioner, in the operation of the
14 activity; or

15 (3) has had a video gaming license suspended or revoked
16 under AS 05.45.

17 * Sec. 6. AS ^{games chance} 05.15.140(c) is amended to read:

18 (c) The commissioner may not issue a permit for an activity
19 operated by a person who

20 (1) has been convicted of, in prison for, or on parole for
21 a felony within the preceding five years, or has been convicted of a
22 crime involving theft or dishonesty or of a violation of a municipal,
23 state, or federal gambling law; or

24 (2) has had a video gaming license suspended or revoked
25 under AS 05.45.

26 * Sec. 7. AS 11.46.482(a) is amended to read:

27 (a) A person commits the crime of criminal mischief in the
28 second degree if, having no right to do so or any reasonable ground to
29 believe the person has such a right,

*Class C felony - max \$50,000
5 yrs*

1 (1) with intent to damage property of another, the person
2 damages property of another in an amount of \$500 or more;

3 (2) the person tampers with an oil or gas pipeline or
4 supporting facility or an airplane or helicopter with reckless disre-
5 gard for the risk of harm to or loss of the property;

6 (3) the person recklessly creates a risk of damage in an
7 amount exceeding \$100,000 to property of another by the use of widely
8 dangerous means; [OR]

9 (4) the person drives, tows away, or takes the propelled
10 vehicle of another and the vehicle or any other property of another is
11 damaged or the owner incurs reasonable expenses as a result of the
12 loss of use of the vehicle in a total amount of \$500 or more; or

13 (5) the person physically manipulates or interferes with a
14 video gaming device regulated under AS 05.45 to alter the outcome of
15 or payoff from a game played or whose play is simulated on the device.

16 * Sec. 8. AS 11.66.280(2) is amended to read:

17 (2) "gambling" means that a person stakes or risks some-
18 thing of value upon the outcome of a contest of chance or a future
19 contingent event not under the person's control or influence, upon an
20 agreement or understanding that that person or someone else will
21 receive something of value in the event of a certain outcome; "gam-
22 bling" does not include

23 (A) bona fide business transactions valid under the
24 law of contracts for the purchase or sale at a future date of
25 securities or commodities and agreements to compensate for loss
26 caused by the happening of chance, including contracts of indem-
27 nity or guaranty and life, health, or accident insurance; [OR]

28 (B) playing an amusement device that

29 (i) confers only an immediate right of replay not

1 exchangeable for something of value other than the privilege
2 of immediate replay; and

3 (ii) does not contain a method or device by which
4 the privilege of immediate replay may be cancelled or re-
5 voked;

6 (C) an activity authorized by the commissioner of
7 commerce and economic development under AS 05.15; or

8 (D) using a video gaming device regulated under
9 AS 05.45;

10 * Sec. 9. AS 11.66.280(3) is amended to read:

11 (3) "gambling device" means any device, machine, parapher-
12 nalia, or equipment that is used or usable in the playing phases of
13 unlawful gambling, whether it consists of gambling between persons or
14 gambling by a person involving the playing of a machine; "gambling
15 device" does not include

16 (A) lottery tickets, policy slips, or other items used
17 in the playing phases of lottery or policy schemes; [OR]

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

20 (C) a video gaming device regulated under AS 05.45;

21 * Sec. 10. ^{criminal code} AS 11.81.900(b) is amended by adding a new paragraph to
22 read:

23 (58) "video gaming device" has the meaning given in AS 05.-
24 45.900.

25 * Sec. 11. AS 18.65.080 is amended by adding a new subsection to read:

26 (b) The Department of Public Safety shall investigate and ascer-
27 tain whether a person appointed by the governor to serve as a member
28 of the Alaska Gaming Commission has been convicted of a crime set out
29 in AS 05.45.010(c).

home rule limitations

* Sec. 12. AS 29.10.200 is amended by adding a new paragraph to read:

(51) AS 29.35.085 (video gaming devices)

* Sec. 13. AS 29.35 is amended by adding a new section to read:

Sec. 29.35.085. VIDEO GAMING DEVICES. (a) A municipality may prohibit the installation and operation of video gaming devices within the municipality by ordinance.

(b) Except as provided by (a) of this section, a municipality may not license or regulate video gaming devices.

(c) This section applies to home rule and general law municipalities.

* Sec. 14. AS 29.45.650^{*sales tax*}(f) is amended to read:

(f) This subsection applies to home rule and general law municipalities. A borough may not levy and collect a sales tax on

(1) a purchase made with

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

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

(2) transactions involving video gaming devices. [THIS

SUBSECTION APPLIES TO HOME RULE AND GENERAL LAW MUNICIPALITIES.]

* Sec. 15. AS 29.45.700^{*sales tax*}(d) is amended to read:

(d) This subsection applies to home rule and general law municipalities. A city that levies and collects sales and use taxes under (a) of this section may not levy and collect a sales tax on

(1) a purchase made with

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

(B) [OR (2)] food instruments, food vouchers, or other

1 type of certificate issued under 42 U.S.C. 1786 (Special Supple-
 2 mental Food Program for Women, Infants, and Children); or
 3 (2) transactions involving video gaming devices. [THIS

4 SUBSECTION APPLIES TO HOME RULE AND GENERAL LAW MUNICIPALITIES.]

5 * Sec. 16. AS ^{muni. gov't.} 29.71.800 is amended by adding a new paragraph to read:

6 (2c) "video gaming device" has the meaning given in AS 05.-
 7 45.900.

8 * Sec. 17. AS ^{partially exempt service} 39.25.120(c) is amended by adding a new paragraph to
 9 read:

10 (21) employees of the Alaska Gaming Commission.

11 * Sec. 18. AS ^{conflict of interest} 39.50.200(b) is amended by adding a new paragraph to
 12 read:

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

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

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

18 (1) \$48 a year for each coin-operated device class 1;

19 (2) \$120 a year for each coin-operated device class 2;

20 (3) \$240 a year for each coin-operated device class 3,

21 other than a video gaming device;

22 (4) \$200 a year for each video gaming device.

23 * Sec. 20. AS 43.35 is amended by adding a new section to read:

24 Sec. 43.35.015. TAX ON VIDEO GAMING DEVICE. (a) In addition to
 25 the tax payable under AS 43.35.010, the holder of a video gaming
 26 device premises operator's license under AS 05.45.210 shall, not later
 27 than 15 days after the end of the calendar quarter,

28 (1) pay to the department 15 percent of the net machine
 29 income earned in the previous calendar quarter from a video gaming

1 device; and

2 (2) file a statement with the department showing the total
3 net machine income earned in the previous calendar quarter from the
4 licensee's video gaming devices and the amount due the department
5 based on the net machine income.

6 (b) A person who fails to pay fees or file a statement as re-
7 quired under (a) of this section is subject to a civil penalty of not
8 more than \$1,000 for each violation. Each day a person fails to
9 comply constitutes a separate violation. The civil penalty may be
10 imposed by the department in an administrative proceeding or by a
11 court.

12 (c) In this section "net machine income" means money received
13 from a video gaming device less money paid out in cash for credits
14 earned from the video gaming device.

15 * Sec. 21. 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 43.-
18 35.200.

19 * Sec. 22. AS 43.35.050 is repealed and reenacted to read:

20 Sec. 43.35.050. DISTRIBUTION OF TAX REVENUE. (a) Except as
21 provided in (b) and (c) of this section, subject to an appropriation
22 made for the purpose, the department shall pay one-half of the pro-
23 ceeds of the gross revenues from the tax provided by this chapter to
24 municipalities in the proportion that the revenue was earned within
25 them. The balance shall be retained by the state and deposited in the
26 general fund.

27 (b) The amount of gross revenue shared with municipalities under
28 (a) of this section does not include

29 (1) revenue from fees paid for distributor's licenses and

1 permits;

2 (2) revenue from penalties;

3 (3) revenue attributable by the department to expenses
4 incurred in the collection of the tax; and

5 (4) revenue from the tax on video gaming devices under
6 AS 43.35.015(a).

7 (c) Subject to an appropriation made for the purpose, the de-
8 partment shall pay

9 (1) one-half of the proceeds of the tax collected under
10 AS 43.35.010(a)(4) to municipalities in the proportion that the reve-
11 nue was earned within them; and

12 (2) one-third of the proceeds of the tax collected under
13 AS 43.35.015(a) to municipalities in the proportion that the revenue
14 was earned within them.

15 * Sec. 23. AS 43.35.090(3) is amended to read

16 (3) "coin-operated device class 2" means

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

29 (B) a video gaming device;

1 * Sec. 24. AS 43.35.090 is amended by adding a new paragraph to read:

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

3 45.900.

4 * Sec. 25. AS 44.62.330(a) ^{administrative adjudication} is amended by adding a new paragraph to

5 read:

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

7 * Sec. 26. INITIAL COMMISSION APPOINTMENTS. The governor shall make
8 the initial appointment of members of the Alaska Gaming Commission within
9 120 days after the effective date of this Act.

10 * Sec. 27. This Act takes effect July 1, 1990.

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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.

ARTICLE 1. ALASKA GAMBLING BOARD.

not allowed in muni.
unless voter referendum
broad definition of
"game" (see p. 11)

gambling board - 5 members, Dept. Revenue

Paid range 26 C
regulate all gambling except games chance (contests skill)

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 ^{not defined} proceeds to board

if muni, 50% of "other" to board _{→ cash received as winnings}

if other, 39% of gross revenue (< \$50,000/mo / 4% \$50.0 - \$134.0 / 5 3/4% above \$134.0 to board. If located in muni, split 50/50 between state & muni.
6 Plus muni may estab. own fees equal to this 50%.

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 11.66.200 - 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 of 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;

(N) 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 may refuse to issue or renew a work permit to an applicant if the applicant 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, panguiqui, 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) "gambling" means that a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under the person's control or influence, upon an agreement or understanding that that person or someone else will receive

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

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

(B) playing an amusement device that

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

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

(C) an activity authorized by the commissioner of revenue under AS 05.15. 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 BOROUGHES. 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 39.50.200(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.

existing law establishes annual license
fee per machine of \$240 (Montana \$100)

1 IN THE SENATE

BY POURCHOT BY REQUEST

2

SENATE BILL NO. 263

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to video gaming devices and their
7 distributors, classifying video gaming devices as
8 coin-operated devices for purposes of regulation and
9 taxation, and exempting them from the definition of
10 gambling devices; to taxes imposed on and regulation
11 of coin-operated devices; and providing for an effec-
12 tive date."

13

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

14

* Section 1. AS 11.66.280(2) is amended to read:

15

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

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(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 indem-
nity 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

*exempt from
criminal
code,
although
operated devices
class III are defined
in current statute,
they're illegal.*

Exempt from
Criminal Code

(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

(D) a video gaming device authorized under AS 43.35;

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

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

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

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

(C) a video gaming device authorized under AS 43.35;

* Sec. 3. AS 43.35 *Com operated devices* is amended by adding a new section to read:

Sec. 43.35.015. TAX ON VIDEO GAMING DEVICE. (a) In addition to the tax payable under AS 43.35.010 *\$240/yr/device*, the holder of a video gaming device license shall, not later than 15 days after the end of the calendar quarter,

(1) pay to the department *Montana 15%* 25 percent of the net machine income earned in the previous calendar quarter from a video gaming device; and

(2) file a statement with the department showing the total net income earned in the previous calendar quarter from video gaming devices authorized under this section, and the amount due the department based on net income.

Montana - by regulation, penalty =
 if 0-30 days late = 10% of tax due
 31-60 days = 25%
 61-90 da = 50%
 91+ days = 100%

(b) A person who fails to pay fees or file a statement as required under (a) of this section is subject to a civil penalty of not more than \$1,000 for each violation. Each day a person fails to comply constitutes a separate violation. The civil penalty may be imposed by the department in an administrative proceeding or by a court.

(c) In this section "net machine income" means money received from a video gaming device less money paid out in cash for credits earned from the video gaming device. *same as Montana*

* Sec. 4. AS 43.35.030 is amended by adding a new subsection to read:

(b) The provisions of (a) of this section do not apply to a person who is licensed as a distributor of video games under AS 43.35.200. *annual permit fee \$50; state resident; no felonies (WE COVER ELSEWHERE)*

* Sec. 5. AS 43.35.050 is repealed and reenacted to read:

Sec. 43.35.050. DISTRIBUTION OF TAX. (a) Except as provided in (b) of this section, subject to an appropriation made for the purpose, the department shall pay one-half of the proceeds of the gross revenues from the tax provided by this chapter to municipalities in the proportion that the revenue was earned within them. The balance shall be retained by the state and deposited in the general fund.

(b) The amount of gross revenue shared with municipalities under (a) of this section does not include

- (1) revenue from fees paid for distributor's licenses and permits;
- (2) revenue from penalties;
- (3) revenue attributable by the department to expenses incurred in the collection of the tax; and
- (4) revenue from the tax on video gaming devices under AS 43.35.015(a).

Excludes video gaming tax from the "municipal share" provisions that apply to other coin-operated devices. *Montana share: 2/3 to municipalities, 1/3 to state*

1 * Sec. 6. AS 43.35.090(3) is amended to read:

2 (3) "coin-operated device class 3" means

3 (A) a slot machine or other apparatus or device that
4 [WHICH] operates by means of insertion of a coin, token, or
5 similar object and that [WHICH], by strict dependence upon the
6 element of chance, may deliver or may entitle the person playing
7 or operating the machine to receive cash, premiums, merchandise,
8 or tokens; the term includes a device or apparatus that is other-
9 wise a coin-operated device class 2 [A DEVICE OR APPARATUS OTHER-
10 WISE FALLING WITHIN THE CLASSIFICATION OF (2) OF THIS SECTION,
11 THOUGH NOT STRICTLY DEPENDENT UPON THE ELEMENT OF CHANCE, IS
12 TAXED ACCORDING TO THE RATE APPLICABLE TO SLOT MACHINES] if the
13 device or apparatus itself delivers cash directly to the person
14 playing or operating it; and

15 (B) a video gaming device;

16 * Sec. 7. AS 43.35.090 is amended by adding a new paragraph to read:

17 (5) "video gaming device" means an electronic machine that
18 uses a video screen or display and microprocessors to play or simulate
19 the play of the game of draw poker or of the game of keno, and that *Montana also allows bingo*
20 upon insertion of money allows a user by skill or chance to receive
21 free games or credits that may be redeemed for cash, but does not
22 include a machine that directly deposits money to the user. *Montana specifies no coins, cash, or tokens.*

23 * Sec. 8. AS 43.35 is amended by adding new sections to read:

24 ARTICLE 3. VIDEO GAMING DEVICES.

25 Sec. 43.35.200. DISTRIBUTOR OF VIDEO GAMING DEVICES TO BE LI-
26 CENSED. (a) A person who distributes video gaming devices may not
27 distribute a video gaming device in this state without a valid video
28 gaming distributor's license issued by the department. To remain
29 valid, a license must be renewed annually on or before a date set by

1 the department.

2 (b) An applicant for a license or renewal of a license shall pay
3 an annual fee of \$500. *Montana \$1000*

4 (c) The department shall refuse to issue a license to a person
5 who distributes video gaming devices if the person has not been a
6 resident of the state for one year immediately preceding the person's
application or reapplication for a license.

*These same
requirements
currently apply
to other courts
device distributors -
AS 43.35.030*

(d) The department

(1) shall refuse to issue a license to a person who dis-
tributes video gaming devices, or shall suspend or revoke a license,
if the person

(A) has been convicted of a felony;

(B) has been convicted of a violation of AS 11.66.-

state gambling laws

200 - 11.66.280 or another law or ordinance with substantially
similar elements;

(2) may refuse to issue a license to a person who distrib-
utes video gaming devices, or may suspend or revoke a license if the
person fails to comply with a provision of this chapter or of a regu-
lation adopted under it;

(3) may require an applicant for a license or renewal of a
license and, if the applicant is a corporation, each shareholder and
employee of the corporation, to file an affidavit that the distributor

(A) is a citizen of the United States;

(B) has been a bona fide resident of the state for at
least one year; and

(C) has never been convicted of a crime identified in

(1) of this subsection.

(e) A person who is denied a license under (d) of this section,
or whose license is suspended or revoked under (d) of this section,

1 has the right to a hearing on the department's decision and may appeal
2 the denial, suspension, or revocation to the superior court.

3 (f) In this section "license" means a video gaming distributor's
4 license.

5 Sec. 43.35.210. INSTALLATION OF VIDEO GAMING DEVICES. A person
6 licensed under AS 43.35.200 may install video gaming devices only in
7 premises that sell alcoholic beverages and that hold under AS 04.11:

8 (1) a beverage dispensary license under AS 04.11.090;

9 (2) a duplicate beverage dispensary license for additional
10 rooms under AS 04.11.090(e);

11 (3) a club license under AS 04.11.110;

12 (4) a common carrier dispensary license under AS 04.11.180;

13 or

14 (5) a pub license under AS 04.11.220.

include ferries

only one is at UAF

15 * Sec. 9. This Act takes effect July 1, 1989.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 146

PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "allowing gaming devices
on ferries"
Sponsor: Szymanski, Faiks & Pearce
Requestor: Szymanski, Faiks & Pearce

Agency Affected: DOT&PF - AMHS
BRU: Marine Operations
Components: SE Vessel Operations and
Overhaul

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		35.0	37.0	38.0	39.0	40.0
TRAVEL						
CONTRACTUAL		30.0	-	-	-	-
SUPPLIES		10.0	-	-	-	-
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		76.0	37.0	38.0	39.0	40.0
CAPITAL		0	0	0	0	0
REVENUE		150.0	155.0	160.0	165.0	170.0

FUNDING: (Thousands of Dollars)

GENERAL FUND		76.0	37.0	38.0	39.0	40.0
FEDERAL FUNDS						
OTHER						
TOTAL		76.0	37.0	38.0	39.0	40.0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See attachment

Prepared by: Tom Shanley *Tom Shanley* Phone: 465-3955
Division: Alaska Marine Highway System *Ed Feltner* Date: 3/29/89
Approved by Commissioner: *Ch. Keith Jensen* Date: 3/29/89
Agency: Department of Transportation and Public Facilities

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

Fiscal note + analysis

DOT&PF FISCAL ANALYSIS FOR

SENATE BILL NO. 146

EXPENDITURES

Personnel Services - added cost would be overtime needed to supervise the gaming devices on the three vessels. Estimate \$12.0 per ship - no added position would be created.

Contractual - there will be approximately \$10.0 cost to upgrade electrical service to handle the 12 machines on each vessel.

Supplies - miscellaneous supplies such as mounting devices to make the games sea worthy.

Revenue - there is no sure way to predict the revenue. We doubled the revenue we are currently making on the 25 video games that are installed at this time. \$150.0 should be a conservative figure.

FISCAL NOTE

REQUEST: _____

Revision Date: _____
Title: An act relating to video gaming devices
Sponsor: By Pourchot by request
Requestor: _____

Agency Affected: Revenue
BRU: Income & Excise Audit Division
Components: Operating and Revenue

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	310.4	310.4	310.4	310.4	310.4	310.4
TRAVEL	9.0	9.0	9.0	9.0	9.0	9.0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	5.0	5.0	5.0	5.0	5.0	5.0
EQUIPMENT	56.0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	8.0	0	0	0	0	0
TOTAL OPERATING	388.4	324.4	324.4	324.4	324.4	324.4
CAPITAL	0	0	0	0	0	0
REVENUE	12000.	15000.	15000.	15000.	15000.	15000.

FUNDING: (Thousands of Dollars)

GENERAL FUND	388.4	324.4	324.4	324.4	324.4	324.4
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	388.4	324.4	324.4	324.4	324.4	324.4

POSITIONS:

FULL-TIME	7	7	7	7	7	7
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel Phone: (907) 465-2320
Division: Income and Excise Audit Date: April 13, 1989

Approved by Commissioner: Hugh Malone Date: 4/17/89
Agency: Department of Revenue

Distribution (by preparer):

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

OPERATING

Personal Service Costs

<u>Location</u>	<u>Position</u>	<u>Range/Step</u>	<u>Annual Salary and Benefits</u>
Juneau	Revenue Audit Supvr I	22A	\$65.3
Juneau	Revenue Auditor II	14A	\$39.8
Juneau	Tax Examiner II	12A	\$35.7
Juneau	Investigator I	14A	\$39.8
Juneau	Clerk Typist II	7A	\$28.0
Anchorage	Revenue Auditor III	18A	\$50.9
Anchorage	Investigator III	18A	\$50.9
TOTAL PERSONAL SERVICE			\$310.4

Travel Costs

Perform inspections, audits, investigations, regulation hearings \$9.0

Supplies

Miscellaneous office supplies-forms, returns, applications and information packets \$1.0
 +\$4.0

TOTAL SUPPLIES \$5.0

FY '90*

Equipment

7 each	Office furnishings and files (chair, module, S drawer file)	\$3.5 X 7	\$24.5
7 each	Wang P/C system	\$3.5 X 7	\$24.5
1 each	Wang printer	\$7.0 X 1	+\$7.0
TOTAL EQUIPMENT			\$56.0

Training

Audit Supervisor, Investigator III, Auditor III travel and training +\$8.0

TOTAL OPERATING

\$388.4

*This represents a one-time expenditure

REVENUE PROJECTION

This projection is based on the assumption that only 5 video gaming devices would be licensed in each premise. Under AS 43.35.210, 935 premises could be licensed. The State of Montana implemented "Video Draw Police Machine Law of 1985", "23-5-601", which was enacted in 1987. This revenue projection is based on an assumed annual gross profit per device of \$9300, which is Montana's gross profit per device. Montana currently has 7500 devices licensed and collected tax of \$10,500,000 in their first year of the law's enactment. Montana's tax rate is 15%; this bill provides for a tax rate of 25%.

Tax Revenue

Licensed premises (each)	935	
Total devices per premise	x5	
Total gaming devices (each)	<u>4,675</u>	
Projected gross profits per machine	x\$9,300	
Total gross profits (tax base)		\$43,477,500
Tax rate		<u>x25%</u>
TAX REVENUE		\$10,869,375

Licensing Revenue

12 month premises (each)	847	
Devices per premise	x5	
Full year devices	<u>4,235</u>	
License rate	x\$240	
12 MONTH LICENSING REVENUE		\$ 1,016,400
6 month premise (each)	88	
Device per premise	x5	
1/2 year devices	<u>440</u>	
License rate	x\$120	
6 MONTH LICENSING REVENUE		\$ 52,800

Distributor Licenses

Projected distributors (each)	15	
License fee	x500	
Distributor license revenue		+ <u>\$7,500</u>
TOTAL LICENSING REVENUE		+<u>\$1,076,700</u>

TOTAL REVENUE \$12,000,000

SECTIONAL ANALYSIS

This bill would classify video gaming devices as coin-operated devices and exempt them from being considered gambling devices. It provides for regulation and taxation of these devices, as well as licensing of the devices and distributors. Administration would be under the Income and Excise Audit Division of the Department of Revenue.

Section #1

Amends AS 11.66.280(2) to exempt gambling authorized under this bill (AS 43.35).

Section #3

Provides for a tax of 25% of the "net machine income" to be paid on a quarterly basis to the state.

This section also defines "net machine income" as money received by the devices less money paid out, and provides for a \$1,000.00 a day penalty for a person who fails to pay fees or file a quarterly return.

Section #4

Amends AS 43.35.030 by adding a section to license a distributor of video games.

Section #5

Repeals AS 43.35.050 and reenacts the distribution of the taxes collected. One-half of the proceeds of the licensing fees shall be paid (by an appropriation) to the municipalities that the fees were earned within. The balance of fees and all taxes shall be retained by the state and deposited into the general fund.

Section #6

Amends AS 43.35.090(3) to provide for video gaming devices to be licensed as a class 3 coin operated device.

Section #7

Amends AS 43.35.090 to define a "video-gaming device".

Section #8

Amends by adding a new section to AS 43.35 to provide for the annual licensing for a video gaming distributor. The annual fee will be \$500.00. This section also provides language for issuance and denials of video gaming license based on specific qualifications of the applicant.

This section also provides for the installation of video gaming devices under AS 43.35.200 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.

Section #9

Provides for the bill to be effective July 1, 1989.

DEPARTMENT'S POSITION

The department has no position regarding the issue of allowing video gaming devices to be legalized in the state, however, the department would have several recommendations regarding administration language that could be added to the bill.

TO: Pat
 FROM: Sandra
 RE: Video Gaming -- SB 263
 DATE: 11/8/89

Vid. pat. txt

+ do sectional

Legal Division is preparing a draft Sponsor Substitute for SB 263. Major changes:

	<u>ORIGINAL</u>	<u>SUBSTITUTE</u>
REGULATION	By Dept. Revenue	By Gaming Commission
LICENSES/ FEES	Distributor - \$500, all to state	Distributor - \$1000, all to state
	<p><i>must hold beverage dispensary license, club, common carrier (incl. AMHS), public utility</i></p> <p>\$240/device, paid by distributor, all to state</p>	<p><i>no gambling-related offenses. Criminal record check required.</i></p> <p><i>3 members - Gov. appoint may hire staff (partially exempt) license, regulate, supervise video gaming</i></p> <p><i>1 yr. resident, US citizen no gambling related offenses</i></p> <p>Operator's (bar owner) - no fee</p> <p><i>no gambling related offenses US citizen, 1-yr. resident</i></p> <p>\$200/device, paid by distributor, shared 1/2 to state, 1/2 to local government</p>
TAX	25% net income, paid by distributor, all to state	15% net income, paid by distributor, shared 2/3 to state, 1/3 to local govt.
LOCAL GOVT.	--	Can prohibit video gaming by ordinance
SPECIFICS	--	<p><i>Age 21 to play</i></p> <p>Maximum 20 machines per bar</p> <p>No play 2 a.m. - 8 a.m. <i>no 5am-8am or by mun. ordinance</i></p> <p>Maximum bet \$2</p> <p>Maximum payout \$100 for poker, \$800 for keno <i>← MT: why vary?</i></p> <p>Expected payback 80%</p>
MACHINE TEST	--	<p>Required before machine is sold, played, or used. Gaming Commission may contract with another state for this service. Machine specifications to be set in regulation</p>

Games: draw poker, keno, or another game authorized by the commission

revoke license if commit felony or gaming offense
100/day civil fine - fail to pay tax
 PENALTIES: *class C felony - tamper to affect outcome*

BOTH THE ORIGINAL BILL AND THE SPONSOR SUBSTITUTE define "net income" as money put into a video machine minus credits paid out in cash, and allow machines in bars, clubs, pubs, and on common carriers (the ferry).

ALL OF THE ABOVE CHANGES ARE PATTERNED ON THE MONTANA LAW, except I switched the distribution of the net income tax from 1/3 state as in Montana to 2/3 state. Whether or not we want to share revenue with local governments is of course a policy question -- it means less revenue to the state, but possibly more municipal support for SB 263 (more money in municipal coffers to offset increases in law enforcement, etc. that may arise). Allowing local governments to prohibit gambling may have a significant impact -- when I was in Oregon this summer Multnomah County (Portland) was voting to prohibit video gaming, which effectively gutted the proposal since over half of the revenue was expected to come from the Portland area.

THE PRIMARY DIFFERENCE BETWEEN MONTANA'S LAW AND THE SPONSOR SUBSTITUTE is that in Montana the bar owner (holder of the liquor license) is licensed by the Gaming Commission for each machine and pays the fees and taxes. SB 263 is set up so that the distributor is licensed for each machine and pays the fees and tax. I did this initially at the recommendation of the Department of Revenue -- this is how they handle pinball and cigarette machines, and it is administratively efficient because they deal with fewer individuals. Tying the video machine license more directly to the liquor license perhaps provides more of an incentive for the liquor license holder to act properly, but I've asked Legal to try to accomplish the same thing by authorizing the ABC Board to suspend and revoke liquor licenses for violations of the video gaming statute.

OTHER THINGS FROM MONTANA'S LAW I DIDN'T INCLUDE, BUT COULD:

1. A policy statement that the government's role is to protect the public from unscrupulous proprietors and players, etc.
2. Establishment of a Gaming Advisory Council to assist the Commission and make recommendations on needed legislative changes, etc.
3. The granting of peace officer status to certain employees of the Gaming Commission.
4. Regulation of video bingo -- CHARR requested only poker and keno.
5. A ~~limit on the number of poker machines per establishment (10 of the total 20 machines allowed).~~

NOTE: The Sponsor Substitute sets up the Gaming Commission solely to regulate video gaming, not games of chance/contests of skill (pull-tabs, etc). Certainly the Commission can be given broader powers, but it will make your bill very cumbersome so I've left it out for now. The Commission will be patterned after that in SB 311, Zharoff's bill that establishes a Gaming Commission to regulate games of chance/contests of skill. It's a 5-member board in the Department of Commerce.

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. Board members would be paid at Range 26C, and would regulate all forms of gambling except games of chance/contests of skill.
2. All details would be worked out in regulation (license fees, calculation of gross revenue, forms of gambling permitted, 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, 3-5.75% of gross revenue to state (depending on total revenue). If located in muni, this would be split 50 state/50 muni. Plus, muni may establish own fees.
If muni-run, half of the 3-5.75% of gross revenue to state, half to muni.
5. Broad definition of game (roulette, wheel of fortune, craps, poker, baccarat, slot machine, etc.).

Sandra

BY SEN. POURCHOT BY REQUEST

1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 263

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Gaming Commission,
7 authorizing the commission to regulate video gaming
8 devices and persons who manufacture, assemble, pro-
9 duce, distribute, and operate them, and exempting
10 video gaming devices from the definition of gambling
11 devices; relating to state laws applicable to regu-
12 lation of gambling, state criminal laws defining
13 criminal mischief, municipal regulation and taxation
14 of video gaming devices, and taxes imposed on and
15 regulation of video gaming and coin-operated devices;
16 and providing for an effective date."

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

18 * Section 1. AS 05 is amended by adding a new chapter to read:

19 CHAPTER 45. ALASKA GAMING COMMISSION.

20 ARTICLE 1. ESTABLISHMENT AND OPERATION OF COMMISSION.

21 Sec. 05.45.010. ALASKA GAMING COMMISSION. (a) The Alaska
22 Gaming Commission is established in the Department of Commerce and
23 Economic Development. The commission is composed of five members.
24 Four members shall be appointed by the governor, subject to confirma-
25 tion by the legislature. The fifth member of the commission is the
26 commissioner of commerce and economic development or the commis-
27 sioner's designee.

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

Amended
2/22

in DCED

*5 members
incl DCED.com.*

8

state resident

not "this chapter"
05.45 doesn't
define any
criminal
offense

members → NO
felony
gaming violation

1 (c) Except for the commissioner of commerce and economic devel-
opment or the commissioner's designee, a person may not serve as a
member of the commission if that person has been convicted of
2 (1) a felony; or
3 (2) an offense under AS 05.15, AS 11.66.200 - 11.66.280, or
4 a comparable provision of municipal, state, or federal law.

games of
chance

gambling

Criminal
record check

7 (d) Except for the commissioner of commerce and economic devel-
opment or the commissioner's designee, a person may not serve as a
member of the commission until the investigation required under
8 AS 18.65.080(b) is completed.
9

criminal record check - p. 9, l. 26

quorum

11 (e) The commission shall elect a chair from its membership.
12 (f) Three members of the commission constitute a quorum for the
13 transaction of business.

3 yr. term

14 Sec. 05.45.020. TERM OF OFFICE. Members of the commission
15 appointed by the governor serve staggered terms of three years. A
16 vacancy is filled by appointment for the unexpired term. A member of
17 the commission holds office until a successor is appointed and qual-
18 ifies.

remove
for cause

19 Sec. 05.45.030. REMOVAL AND SUSPENSION OF MEMBERS. (a) Except
20 for the commissioner of commerce and economic development or the
21 commissioner's designee, the governor may remove a member for cause,
22 including incompetence, neglect of duty, or misconduct in office. A
23 member being removed for cause shall be given a copy of the charges
24 and afforded an opportunity to publicly present a defense in person or
25 by counsel upon not less than 10 days' notice. If a member is removed
26 for cause, the governor shall file with the lieutenant governor a
27 complete statement of all charges made against the member and the
28 governor's findings based on the charges, together with a complete
29 record of the proceedings.

1 (b) The governor may immediately suspend a member for a viola-
2 tion of law or for misconduct in office pending removal from office
3 under (a) of this section.

4 Sec. 05.45.040. COMPENSATION AND PER DIEM. Except for the
5 commissioner of commerce and economic development or the commis-
6 sioner's designee, members of the commission do not receive a salary
7 for their service on the commission but are entitled to per diem and
8 travel expenses authorized for state boards and commissions under
9 AS 39.20.180.

per diem/
travel

10 Sec. 05.45.050. DUTIES AND POWERS OF THE COMMISSION. (a) The
11 commission shall

12 (1) license, regulate, and supervise video gaming under
13 this chapter;

14 (2) as to the regulation and supervision of video gaming
15 devices, have and exercise all duties and powers that the Department
16 of Revenue may exercise under AS 43 to levy, collect, and enforce the
17 payment of taxes and fees imposed by this chapter;

Added
85

collect taxes
machine specs.
hire staff

18 (3) adopt regulations establishing the minimum machine
19 specifications for video gaming devices that may be used in the state;

20 (4) hire staff as needed to enforce and administer this
21 chapter; and

22 (5) adopt regulations necessary to carry out the provisions
23 of this chapter.

24 (b) The commission may

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

27 (2) compel the production of documents showing the receipts
28 and disbursements of a person licensed under AS 05.45.200 or 05.-
29 45.210;

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

*partially
exempt*

3 Sec. 05.45.060. EMPLOYEES OF THE COMMISSION. Employees of the
4 commission are in the partially exempt service under AS 39.25.120.

5 Sec. 05.45.070. ENFORCEMENT OF REGULATIONS. The attorney
6 general shall enforce the regulations of the commission.

7 Sec. 05.45.080. RECORDS OF THE COMMISSION. All records of the
8 commission are public records and subject to public inspection.

APA

9 Sec. 05.45.090. ADMINISTRATIVE PROCEDURE ACT. The operations of
10 the commission are subject to the Administrative Procedure Act
11 (AS 44.62).

12 Sec. 05.45.100. CONFLICT OF INTEREST ACT. The commission is
13 subject to AS 39.50 (conflict of interest).

14 ARTICLE 2. REGULATION OF PERSONS ENGAGED IN VIDEO GAMING.

*distributor's
license*

15 Sec. 05.45.200. DISTRIBUTOR'S LICENSE. (a) A person may not
16 manufacture, assemble, produce, or distribute a video gaming device in
17 this state without a valid video gaming distributor's license issued
18 by the commission. To remain valid, a distributor's license must be
19 renewed annually on or before a date set by the commission.

\$1000/yr

20 (b) An applicant for a license or renewal of a license under (a)
21 of this section shall pay to the commission an annual fee of \$1,000.

*premises
operator's
license*

22 Sec. 05.45.210. PREMISES OPERATOR'S LICENSE. (a) A person may
23 not install or allow another to use a video gaming device without a
24 valid video gaming premises operator's license issued by the commis-
25 sion. The commission shall refuse to issue a gaming premises opera-
26 tor's license to a person unless the person holds a license described
27 in AS 05.45.230. To remain valid, a premises operator's license must
28 be renewed annually on or before a date set by the commission.

29 (b) An applicant for a license or renewal of a license under (a)

\$100/yr.

1 of this section shall pay to the commission an annual fee of \$100.

2 Sec. 05.45.220. LICENSING PROCEDURE. (a) The commission

3 (1) shall refuse to issue a license to a person under
4 AS 05.45.200 or 05.45.210 if the person has been convicted of

(suspend/
revoke
05.45.400)

no license⁵ if
felony/gaming
offense₈

(A) a felony; or

(B) an offense under AS 05.15, AS 11.66.200 - 11.-
66.280, or a comparable provision of municipal, state, or federal
law;

9 (2) may refuse to issue a license to a person under AS 05.-
10 45.200 or 05.45.210, if the person fails to comply with a provision of
11 this chapter or of a regulation adopted under it;

12 (3) may require an applicant for a license or renewal of a
13 license issued under AS 05.45.200 or 05.45.210 and, if the applicant
14 is a corporation, each shareholder and employee of the corporation, to
file an affidavit that the applicant has never been convicted of a
crime identified in (1) of this subsection.

affidavit re
crime₁₆

17 (b) A person who is denied a license under (a) of this section
18 has the right to a hearing on the commission's decision and may appeal
19 the denial to the superior court.

20 Sec. 05.45.230. INSTALLATION OF VIDEO GAMING DEVICES. (a) A
21 person licensed under AS 05.45.210 may install or allow another to use
22 video gaming devices only in premises that sell alcoholic beverages
23 and for which has been issued

- 24 (1) a beverage dispensary license under AS 04.11.090;
- 25 (2) a duplicate beverage dispensary license for additional
26 rooms under AS 04.11.090(e);
- 27 (3) a club license under AS 04.11.110;
- 28 (4) a common carrier dispensary license under AS 04.11.180;

29 or

bar license₂₅

1 (5) a pub license under AS 04.11.220.

2 (b) A person may not install more than 20 video gaming devices
3 on a licensed premises.

4 ARTICLE 3. REGULATION OF VIDEO GAMING.

5 Sec. 05.45.300. TESTING OF PROTOTYPE VIDEO GAMING DEVICES. (a)

6 Before a video gaming device is sold or distributed for use in the
7 state, the commission shall test and approve a prototype of the device
8 to ascertain whether a device manufactured to the specifications of
9 the prototype meets minimum machine specification standards.

10 (b) The commission may contract with another state to fulfill
11 the requirements of (a) of this section.

12 (c) The commission shall require the distributor seeking the
13 examination and approval of a new video gaming device to pay the
14 anticipated actual costs of the examination in advance and, after the
15 completion of the examination, shall refund overpayments or charge and
16 collect amounts sufficient to reimburse the commission for under-
17 payments of actual costs.

18 Sec. 05.45.310. INSPECTION. The commission may provide for
19 regular inspection of video gaming devices that are approved for
20 installation and use under this chapter. Regular inspection may
21 include a review of the audit trail of the video gaming device to
22 ensure compliance with the payout requirements of AS 05.45.340. The
23 commission may contract with the Alcoholic Beverage Control Board to
24 conduct regular inspections authorized by this section.

25 Sec. 05.45.320. REGULATION OF PLAY. (a) A person who has not
26 reached the age of 21 years may not use a video gaming device.

27 (b) The operator of premises in which video gaming devices have
28 been installed may allow use of the video gaming devices only during
hours when a person may sell alcoholic beverages on the premises under

max. 20

machine tests
audit
wording

rework

distributor pay test

inspections/
ABC Board

who
see p. 3 RE
not just
to player
but to
state &
muni
enforce

age 21

bar hours
only

1 AS 04.16.010 and AS 04.21.010.

2 Sec. 05.45.330. LIMITATION OF WAGER. The maximum amount that
3 may be wagered on a game that is played or simulated by a video gaming
4 device is \$2. A video gaming device may not be programmed to accept a
5 wager in an amount that exceeds the maximum amount authorized by this
6 section.

\$2 bet

7 Sec. 05.45.340. PAYOUT REQUIREMENTS. (a) Each video gaming
8 device shall pay out not less than 80 percent of the value of the
9 amount played during the useful life of the device. Each video gaming
10 device must have an electronic accounting device that the commission
11 may use to verify the payout percentage.

80% payout

12 (b) Based on the play of a video gaming device, the video gaming
13 device shall provide the user of the device who is successful a maxi-
14 mum cash payout of \$100 per game.

\$100 max payout that cash

credits redeemed for not more than \$100 in cash that may be

15 ARTICLE 4. ENFORCEMENT.

Suspend/ revoke license

16 Sec. 05.45.400. LICENSE TERMINATION. (a) The commission shall
17 suspend or revoke a license issued under AS ^{distributor} 05.45.200 or ^{premises operator} 05.45.210 if
18 the person holding the license has been convicted of

(deny 05.45.220)

- 19 (1) a felony; or
20 (2) an offense under AS 05.15, AS 11.66.200 - 11.66.280, or
21 a comparable provision of municipal, state, or federal law.

22 (b) The commission may suspend or revoke a license issued under
23 AS 05.45.200 or 05.45.210 if the person holding the license fails to
24 comply with a provision of this chapter or of a regulation adopted
25 under it.

26 (c) A person whose license is suspended or revoked under this
27 section has the right to notice of and a hearing on the commission's
28 decision and may appeal the suspension or revocation to the superior
29 court.

\$200/yr/machine
yes

is this the premises operator?
per 05.45.210

15% state

civil fine - \$1000/day

define "net income"

share taxes 1/3 w/ muni.

ARTICLE 5. TAXES AND FEES.

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Sec. 05.45.500. TAXES. (a) 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 shall first pay to the commission a tax of \$200 a year for each video gaming device.

(b) In addition to the tax payable under (a) of this section, the holder of a video gaming device premises operator's license under AS 05.45.210 shall, not later than 15 days after the end of the calendar quarter,

(1) pay to the commission 15 percent of the net machine income earned in the previous calendar quarter from a video gaming device; and

(2) file a statement with the commission showing the total net machine income earned in the previous calendar quarter from the licensee's video gaming devices and the amount due the department based on the net machine income.

(c) A person who fails to pay the taxes and fees or file a statement required under this section is subject to a civil penalty of not more than \$1,000 for each violation. Each day a person fails to comply constitutes a separate violation. The civil penalty may be imposed by the commission in an administrative proceeding or by a court.

(d) In this section, "net machine income" means money received from a video gaming device less money paid out in cash for credits earned from the video gaming device.

Sec. 05.45.510. DISTRIBUTION OF REVENUE. Subject to an appropriation made for the purpose, the commission shall pay one-third of the proceeds of the taxes collected under AS 05.45.500(a) and (b) to municipalities in the proportion that the revenue was earned within

1 them.

2 ARTICLE 6. GENERAL PROVISIONS.

3 Sec. 05.45.900. DEFINITIONS. In this chapter,

4 (1) "commission" means the Alaska Gaming Commission;

5 (2) "video gaming device"

6 (A) means an electronic machine that uses a video
7 screen or display and microprocessors to play or simulate the
8 play of the game of draw poker or the game of keno, as defined by
9 regulation of the commission, or of another game authorized by
10 the commission, and that upon insertion of money allows a user by
11 skill or chance to receive

(i) free games; or

(ii) credits that may be redeemed for cash;

14 (B) does not include a machine that directly dispenses
15 coins, cash, tokens, or anything else of value.

16 * Sec. 2. AS 05.15.060 is amended to read:

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

20 (1) the issuance, renewal, and revocation of permits and
21 licenses;

22 (2) a method of ascertaining net proceeds, the determina-
23 tion of items of expense that may be incurred or paid, and the limita-
24 tion of the amount of the items of expense to prevent the proceeds
25 from the activity permitted from being diverted to noncharitable,
26 noneducational, nonreligious, or profit-making organizations, indi-
27 viduals, or groups;

28 (3) the immediate revocation of permits and licenses au-
29 thorized under this chapter if this chapter or regulations adopted

*poker/keno/
other*

*can't dispense
coins*

*games of chance
skill - revoke license
if video gaming offense*

1 under it are violated;

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

5 (5) the investigation of permittees, licensees, and their
6 employees, including the fingerprinting of those permittees, licens-
7 ees, and employees whom the commissioner considers it advisable to
8 fingerprint;

9 (6) exclusion from participation as a permittee, licensee,
10 or employee of a permittee or licensee, of a person

11 (A) convicted of, in prison for, or on parole for a
12 felony within the preceding five years, or convicted of a crime
13 involving theft or dishonesty or of a violation of a municipal,
14 state, or federal gambling law; or

15 (B) whose video gaming license has been suspended or
16 revoked under AS 05.45;

17 (7) the method and manner of conducting authorized activ-
18 ities and awarding of prizes or awards, and the equipment that may be
19 used;

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

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

27 (10) the disposition of funds in possession of a permittee
28 or a person, municipality, or qualified organization that possesses an
29 operator's license at the time a permit or a license is surrendered,

1 revoked, or invalidated;

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

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

6 * Sec. 3. AS 05.15.122(c) is amended to read:

7 (c) The department may not issue an operator's license to an
8 applicant if the applicant or a person employed by the applicant in a
9 managerial or supervisory capacity

10 (1) [,] has been convicted of, in prison for, or on parole
11 for a felony within the preceding five years, or has been convicted of
12 a crime involving theft or dishonesty or of a violation of a municipi-
13 pal, state, or federal gambling law; or

14 (2) has had a video gaming license suspended or revoked
15 under AS 05.45.

16 * Sec. 4. AS 05.15.122(d) is amended to read:

17 (d) A licensee may not employ a person in a managerial or super-
18 visory capacity if the person

19 (1) has been convicted of, in prison for, or on parole for
20 a felony within the preceding five years, or has been convicted of a
21 crime involving theft or dishonesty or of a violation of a municipal,
22 state, or federal gambling law; or

23 (2) has had a video gaming license suspended or revoked
24 under AS 05.45.

25 * Sec. 5. AS 05.15.140(b) is amended to read:

26 (b) In an application for a permit, a municipality or qualified
27 organization shall disclose the name and address of each person re-
28 sponsible for the operation of the activity and whether any person
29 named

*deny
games of chance
license*

*restrict
games of chance
employment*

*games of chance
permit
application*

1 (1) has been convicted of, in prison for, or on parole for
2 a felony within the preceding five years, or convicted of a crime
3 involving theft or dishonesty or of a violation of a municipal, state,
4 or federal gambling law; [OR]

5 (2) has a prohibited financial interest, as defined in
6 regulations adopted by the commissioner, in the operation of the
7 activity; or

8 (3) has had a video gaming license suspended or revoked
9 under AS 05.45.

10 * Sec. 6. AS 05.15.140(c) is amended to read:

11 (c) The commissioner may not issue a permit for an activity
12 operated by a person who

13 (1) has been convicted of, in prison for, or on parole for
14 a felony within the preceding five years, or has been convicted of a
15 crime involving theft or dishonesty or of a violation of a municipal,
16 state, or federal gambling law; or

17 (2) has had a video gaming license suspended or revoked
18 under AS 05.45.

19 * Sec. 7. AS 11.46.482(a) is amended to read:

20 (a) A person commits the crime of criminal mischief in the
21 second degree if, having no right to do so or any reasonable ground to
22 believe the person has such a right,

23 (1) with intent to damage property of another, the person
24 damages property of another in an amount of \$500 or more;

25 (2) the person tampers with an oil or gas pipeline or
26 supporting facility or an airplane or helicopter with reckless disre-
27 gard for the risk of harm to or loss of the property;

28 (3) the person recklessly creates a risk of damage in an
29 amount exceeding \$100,000 to property of another by the use of widely

*deny
James
permit*

Class C felony - max \$50,000 + 5 yrs

1 dangerous means; [OR]

2 (4) the person drives, tows away, or takes the propelled
3 vehicle of another and the vehicle or any other property of another is
4 damaged or the owner incurs reasonable expenses as a result of the
5 loss of use of the vehicle in a total amount of \$500 or more; or

6 (5) the person physically manipulates or interferes with a
video gaming device regulated under AS 05.45 to alter the outcome of
or payoff from a game played or whose play is simulated on the device.

9 * Sec. 8. AS 11.66.280(2) is amended to read:

10 (2) "gambling" means that a person stakes or risks some-
11 thing of value upon the outcome of a contest of chance or a future
12 contingent event not under the person's control or influence, upon an
13 agreement or understanding that that person or someone else will
14 receive something of value in the event of a certain outcome; "gam-
15 bling" does not include

16 (A) bona fide business transactions valid under the
17 law of contracts for the purchase or sale at a future date of
18 securities or commodities and agreements to compensate for loss
19 caused by the happening of chance, including contracts of indem-
20 nity or guaranty and life, health, or accident insurance; [OR]

21 (B) playing an amusement device that

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

25 (ii) does not contain a method or device by which
26 the privilege of immediate replay may be cancelled or re-
27 voked;

28 (C) an activity authorized by the commissioner of
29 commerce and economic development under AS 05.15; or

*penalty⁶
for machine
manipulation*

*exempt video
gaming from
in lawful gambling*

1 (D) using a video gaming device regulated under
2 AS 05.45;

3 * Sec. 9. AS 11.66.280(3) is amended to read:

4 (3) "gambling device" means any device, machine, parapher-
5 nalia, or equipment that is used or usable in the playing phases of
6 unlawful gambling, whether it consists of gambling between persons or
7 gambling by a person involving the playing of a machine; "gambling
8 device" does not include

*exclude
from
illegal
gambling
device*

9 (A) lottery tickets, policy slips, or other items used
10 in the playing phases of lottery or policy schemes; [OR]

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

13 (C) a video gaming device regulated under AS 05.45;

14 * Sec. 10. AS 11.81.900(b) is amended by adding a new paragraph to
15 read:

*criminal
code definition*

16 (58) "video gaming device" has the meaning given in AS 05.-
17 45.900.

18 * Sec. 11. AS 18.65.080 is amended by adding a new subsection to read:

*criminal
record
check*

19 (b) The Department of Public Safety shall investigate and ascer-
20 tain whether a person appointed by the governor to serve as a member
21 of the Alaska Gaming Commission has been convicted of a crime set out
22 in AS 05.45.010(c).

23 * Sec. 12. AS 29.10.200 is amended by adding a new paragraph to read:

24 (51) AS 29.35.085 (video gaming devices)

25 * Sec. 13. AS 29.35 is amended by adding a new section to read:

*muni. may
prohibit*

26 Sec. 29.35.085. VIDEO GAMING DEVICES. (a) A municipality may
27 prohibit the installation and operation of video gaming devices within
28 the municipality by ordinance.

29 (b) Except as provided by (a) of this section, a municipality

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 29.710800 is amended by adding a new paragraph to read:

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

*munis. can't
tax*

sales tax

sales tax

mun. gov't.

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

3 (21) employees of the Alaska Gaming Commission.

4 * Sec. 18. AS 39.50.200(b) ^{conflict interest} is amended by adding a new paragraph to
5 read:

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-
ses under the person's control of a coin-operated device class 1,
class 2, or class 3 shall first pay a tax as follows:

(1) \$48 a year for each coin-operated device class 1;

(2) \$120 a year for each coin-operated device class 2;

(3) \$240 a year for each coin-operated device class 3,

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

clarify
video game
not coin-
operated
device

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 (B) 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.

FISCAL NOTE

Sandra

REQUEST:

Revision Date: _____
Title: An Act relating to video gaming devices
Sponsor: Pourchot 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						
TOTAL OPERATING	632.2	545.7	545.7	545.7	545.7	545.7

CAPITAL						
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REVENUE	<u>(7,481)</u>	7,481	7,481	7,481	7,481	7,481
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FUNDING: (Thousands of Dollars) *2,486 to munis. Balance (4,995) to state*

GENERAL FUND	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
FEDERAL FUNDS						
OTHER						
TOTAL	632.2	545.7	545.7	545.7	545.7	545.7

POSITIONS:

FULL-TIME	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PART-TIME						
TEMPORARY						
	8	8	8	8	8	8

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 Mercurieff *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

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

Contractual

For Testing of Devices	\$ 15.0
For Routine Inspections (RSA 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

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
--------------------------------------	--------------

\$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

TOTAL ESTIMATED TAX REVENUE

1/3 → minus 3

<u>\$ 7,456,652</u>

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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Pat,

Here's the ferry gambling fiscal note (SB 146).

SB 146 has Dept. Revenue licensing vessels to operate gaming devices, which can be placed anywhere on the ferry where persons under age 21 aren't allowed, and Dept. Transportation depositing gaming receipts in a separate account in the general fund.

This is very different from your bill, which has the Gaming Commission licensing holders of liquor licenses to operate gaming devices, which can be placed only in bars. The ferry's liquor license is issued to the State, which means DOT would be paying the Gaming Commission \$200 per machine, 15% of net income, etc., and depositing the balance of the machine income in the general fund.

Would it require special wording in your bill to short circuit this? You're right that DOT "had it all worked out last year", but the wording of your bill is much more specific than the bill they were working from last year.

Sandra

**STATE OF ALASKA
1989 LEGISLATIVE SESSION**

BILL VERSION: SB 146
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "allowing gaming devices on ferries"
 Sponsor: Szymanski, Fajks & Pearce
 Requestor: Szymanski, Fajks & Pearce
 Agency Affected: DOT&PF - AMHS
 BRU: Marine Operations
 Components: SE Vessel Operations and Overhaul

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		35.0	37.0	38.0	39.0	40.0
TRAVEL						
CONTRACTUAL		30.0	-	-	-	-
SUPPLIES		10.0	-	-	-	-
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		76.0	37.0	38.0	39.0	40.0
CAPITAL		0	0	0	0	0
REVENUE		150.0	155.0	160.0	165.0	170.0

FUNDING: (Thousands of Dollars)

GENERAL FUND		76.0	37.0	38.0	39.0	40.0
FEDERAL FUNDS						
OTHER						
TOTAL		76.0	37.0	38.0	39.0	40.0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See attachment

Prepared by: Tom Shanley Phone: 465-3955
 Division: Alaska Marine Highway System Date: 3/29/89
 Approved by Commissioner: [Signature] Date: 3/29/89
 Agency: Department of Transportation and Public Facilities

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