

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7520 SENATE LABOR & COMMERCE

INCORPORATE INTO SB 6

WORK DRAFT

WORK DRAFT

WORK DRAFT

7-LS0958A
Gaguine
3/12/91

CONVERSION FROM
NON-PROFIT GAMING

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY .

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to charitable gaming; and providing for an effective date."

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

3 * Section 1. AS 05.15.060 is amended to read:

4 Sec. 05.15.060. REGULATIONS. The department shall adopt regulations under the
5 Administrative Procedure Act (AS 44.62) necessary to carry out this chapter covering, but not
6 limited to,

7 (1) the issuance, renewal, and revocation of permits, [AND] licenses, and vendor
8 registrations;

9 (2) a method of ascertaining net proceeds, the determination of items of expense
10 that may be incurred or paid, and the limitation of the amount of the items of expense to prevent
11 the proceeds from the activity permitted from being diverted to noncharitable, noneducational,
12 nonreligious, or profit-making organizations, individuals, or groups;

13 (3) the immediate revocation of permits, [AND] licenses, and vendor
14 registrations authorized under this chapter if this chapter or regulations adopted under it are

1 violated;

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

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

7 *shc* (6) [EXCLUSION FROM PARTICIPATION AS A PERMITTEE, LICENSEE,
8 OR EMPLOYEE OF A PERMITTEE OR LICENSEE, OF A PERSON CONVICTED OF, IN
9 PRISON FOR, OR ON PAROLE FOR A FELONY WITHIN THE PRECEDING FIVE YEARS,
10 OR CONVICTED OF A CRIME INVOLVING THEFT OR DISHONESTY OR OF A
11 VIOLATION OF A MUNICIPAL, STATE, OR FEDERAL GAMBLING LAW;

12 (7)] the method and manner of conducting authorized activities and awarding of
13 prizes or awards, and the equipment that may be used;

14 (7) [(8)] the number of activities that may be held, operated, or conducted under
15 a permit during a specified period; however, the department may not allow more than 14 bingo
16 sessions a month and 35 bingo games a session to be conducted under a permit;

17 (8) [(9)] a method of accounting for receipts and disbursements by operators,
18 including the keeping of records and requirements for the deposit of all receipts in a bank;

19 (9) [(10)] the disposition of funds in possession of a permittee, [OR] a person,
20 municipality, or qualified organization that possesses an operator's license, or a registered
21 vendor at the time a permit, [OR] a license, or a vendor registration is surrendered, revoked,
22 or invalidated;

23 (10) [(11)] restrictions on the participation by employees of the Department of
24 Fish and Game in salmon classics;

25 (11) [(12)] other matters the commissioner considers necessary to carry out this
26 chapter or protect the best interest of the public.

27 * Sec. 2. AS 05.15.070 is amended to read:

28 Sec. 05.15.070. EXAMINATION OF BOOKS AND RECORDS. The commissioner may
29 examine or have examined the books and records of a permittee, an operator, a registered
30 vendor, or a person licensed to manufacture or to distribute pull-tab games in the state. The
31 commissioner may issue subpoenas for the attendance of witnesses and the production of books,

*OPINION
AND DECISION
TO USE
WARRANTS
HANDLERS*
*- WHAT ABOUT
OPINION, HANDSON
REVISION SAY*

1 records, and other documents.

2 * Sec. 3 AS 05.15.115 is amended by adding a new subsection to read:

3 (e) A contract between a permittee and an operator under this section for the conduct of
4 pull-tab games shall provide that the permittee must receive at least 30 percent of the ideal net
5 for each pull-tab series sold by the operator under the contract.

*WOULD LIKE - CHAIR FIXES 35%
HANDON 40%*

6 * Sec. 4. AS 05.15.122(c) is amended to read:

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

*AMENDS
SB 1880*

10 (1) a felony violation of the laws of the state, the United States, or another
11 state or territory relating to controlled substances or gambling;

12 (2) in prison for, or on parole for a felony other than a felony described in (1)
13 of this subsection within the preceding five years; [,] or

14 (3) a misdemeanor [CONVICTED OF A CRIME] involving theft or dishonesty
15 or involving [OF] a violation of a municipal, state, or federal gambling law within the
16 preceding five years.

17 * Sec. 5. AS 05.15.122(d) is amended to read:

18 (d) A licensee may not employ a person in a managerial or supervisory capacity if the
19 person would not be eligible for issuance of a license under (c) of this section [HAS BEEN
20 CONVICTED OF, IN PRISON FOR OR ON PAROLE FOR A FELONY WITHIN THE
21 PRECEDING FIVE YEARS, OR CONVICTED OF A CRIME INVOLVING THEFT OR
22 DISHONESTY OR OF A VIOLATION OF A MUNICIPAL, STATE, OR FEDERAL
23 GAMBLING LAW].

*AMENDS
SB 1886*

LICENSEE OR PERMITTEE - OPERATORS

24 * Sec. 6. AS 05.15.140(b) is amended to read:

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

*AMENDS
SB 1886*

28 (1) would be ineligible for issuance of an operator's license because of
29 AS 05.15.122(c) [HAS BEEN CONVICTED OF, IN PRISON FOR, OR ON PAROLE FOR A
30 FELONY WITHIN THE PRECEDING FIVE YEARS, OR CONVICTED OF A CRIME
31 INVOLVING THEFT OR DISHONESTY OR OF A VIOLATION OF A MUNICIPAL, STATE,

1 OR FEDERAL GAMBLING LAW]; or

2 (2) has a prohibited financial interest, as defined in regulations adopted by the
3 commissioner, in the operation of the activity.

4 * Sec. 7. AS 05.15.140(c) is amended to read:

5 (c) The commissioner may not issue a permit for an activity operated by a person
6 described in (b)(1) of this section [WHO HAS BEEN CONVICTED OF, IN PRISON FOR, OR
7 ON PAROLE FOR A FELONY WITHIN THE PRECEDING FIVE YEARS, OR CONVICTED
8 OF A CRIME INVOLVING THEFT OR DISHONESTY OR OF A VIOLATION OF A
9 MUNICIPAL, STATE, OR FEDERAL GAMBLING LAW].

10 * Sec. 8. AS 05.15.160(a) is amended to read:

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

- 14 (1) goods, wares, and merchandise necessary for the operation of the activity;
- 15 (2) personal services involved with the operation of the activity, including those
16 performed by

17 (A) an employee of the permittee; or

18 (B) an operator hired by the permittee to conduct the activity [IF THE
19 COMPENSATION IS NOT RELATED TO THE RECEIPTS FROM THE ACTIVITY].

20 * Sec. 9. AS 05.15.170 is repealed and reenacted to read:

21 Sec. 05.15.170. SUSPENSION OR REVOCATION OF PERMIT, LICENSE, OR
22 VENDOR REGISTRATION. (a) The department may suspend, for a period of up to one year,
23 or revoke a permit, license, or vendor registration, after giving notice to and an opportunity to
24 be heard by the permittee, licensee, or vendor, if the permittee, licensee, or vendor

25 (1) violates or fails to comply with a requirement of this chapter or of a regulation
26 adopted under this chapter;

27 (2) breaches a contractual agreement with a permittee, licensee, or registered
28 vendor;

29 (3) is convicted of a felony, of a crime involving theft or dishonesty, or of a
30 violation of a municipal, state, or federal gambling law; for the purposes of this paragraph, a
31 permittee, licensee, or vendor that is not a natural person is considered convicted if an owner or

*REVIEW US
COMMENT
5/18*

*COMING WITH HB
501*

1 manager of the permittee, licensee, or vendor is convicted; or

2 (4) knowingly submits false information to the department or, in the case of a
3 registered vendor, to a permittee or operator when the vendor knows that the false information
4 will be submitted to the department as part of an application for registration.

5 (b) If the department revokes a license or vendor registration under this section, it may
6 prohibit the licensee or vendor from reapplying for a license or vendor registration for a period
7 of not more than five years. If the department revokes a permit under this section, it may
8 prohibit the permittee from reapplying for a permit for a period of not more than one year.

9 * Sec. 10. AS 05.15.183 is amended by adding a new subsection to read:

*LOOK AT
HB 501*

10 (e) A distributor may not

*OK
PROPOSED*

11 (1) take an order for the purchase of a pull-tab series from a vendor;

12 (2) sell a pull-tab series to a vendor; or

13 (3) deliver a pull-tab series to a vendor, except as authorized by AS 05.15.185.

14 * Sec. 11. AS 05.15.185 is amended to read:

*OK
PROPOSED*

15 Sec. 05.15.185. DISTRIBUTION OF PULL-TAB GAMES. Each series of pull-tabs
16 distributed in the state must be sealed and have a serial number label issued by the National
17 Association of Fundraising Ticket Manufacturers or other serial number label approved by the
18 department and may be distributed only to

19 (1) a municipality or a qualified organization that has obtained a permit issued
20 under this chapter;

21 (2) [OR TO] an operator on behalf of an authorizing permittee; or

22 (3) a vendor registered under this chapter when

23 (A) a permittee or operator has received payment from the vendor in
24 the amount and form set out in AS 05.15.188(j), and the permittee or operator has
25 authorized the distributor to distribute the series to the vendor; and

26 (B) the permittee or operator has paid to the distributor the pull-tab
27 tax under AS 05.15.184.

Amended

28 * Sec. 12. AS 05.15.187 is amended by adding new subsections to read:

29 (h) An owner, manager, or employee of a person holding a permit or license under this
30 chapter, or registered under this chapter as a vendor, may not purchase a pull-tab from a pull-tab
31 series manufactured, distributed, or sold by the permittee, licensee, or registered vendor.

1 (i) A permittee, operator, or registered vendor may not turn over a prize of \$50 or more
2 to a person with a pull-tab card entitling the person to that prize unless the person signs a receipt
3 for the prize and returns the receipt to the permittee, operator, or vendor. The pull-tab card
4 entitling the person to the prize may be signed as the receipt.

5 * Sec. 13. AS 05.15 is amended by adding a new section to article 2 to read:

6 Sec. 05.15.188. PULL-TAB SALES BY VENDORS ON BEHALF OF PERMITTEES
7 AND OPERATORS; VENDOR REGISTRATION. (a) A permittee or operator may contract
8 with a vendor to sell pull-tabs on behalf of the permittee or operator, if the permittee or operator
9 first registers the vendor with the department by applying for registration on a form prescribed
10 by the department and by submitting the registration fee of \$50 for each location at which the
11 vendor will sell pull-tabs.

12 2. (b) The department shall approve or disapprove an initial vendor registration request
13 within 15 working days of receipt of the registration form from a permittee or operator.

14 (c) Upon approval of the vendor registration, the department shall issue an endorsement
15 to the permittee's permit or the operator's license that authorizes the conduct of pull-tab sales at
16 that vendor location.

17 (d) The endorsement issued under (c) of this section is an extension of the permittee's
18 or operator's privilege under AS 05.15.100 to conduct pull-tab sales in this state. A vendor may
19 not sell a pull-tab series until a copy of the permit or license containing the endorsement for the
20 new vendor location has been posted by the permittee or operator in the registered vendor
21 establishment. The endorsed permit or license must be clearly visible to the gaming public.

22 (e) A separate endorsement shall be issued for each vendor location. The permittee or
23 operator shall inform the department when a vendor with whom the permittee or operator is
24 contracting changes the physical location at which pull-tabs are sold, and shall return to the
25 department all copies of a permit or license endorsed to a vendor that is no longer selling pull-
26 tabs on behalf of the permittee or operator. Failure to inform the department of a change in
27 vendor location, or to return the endorsed copies of a permit or license to the department after
28 a vendor change, may constitute grounds for the suspension or revocation of a permittee's permit
29 or an operator's license.

30 (f) At the time that a permittee or operator annually renews its permit or license, it shall
31 also renew the registration of all locations where a vendor is selling pull-tabs on the permittee's

1 or operator's behalf and shall pay a registration fee of \$50 for each vendor location.

2 (g) A permittee or operator that uses a vendor to sell pull-tabs on its behalf shall enter
3 into a written contract with that vendor. The department may inspect this contract. If the
4 contract contains provisions that violate this chapter or the regulations adopted under it, the
5 department may declare the contract void, and may suspend or revoke the registration of the
6 vendor and the license of the operator or the permit of the permittee.

7 (h) Except as provided in AS 05.15.185, a person, other than a permittee's member-in-
8 charge or an operator, may not directly supply a pull-tab series to a registered vendor for sale
9 by that vendor on behalf of the permittee or operator.

10 (i) If a permittee contracts with a vendor under (a) of this section, the contract must
11 provide that the permittee shall receive no less than 65 percent of the ideal net.

12 (j) Except as provided in AS 05.15.185(3)(A), an amount equal to the ideal net less the
13 compensation owed to the vendor shall be paid by the vendor to the member in charge, operator,
14 or distributor upon delivery of a pull-tab series to the vendor for sale. The amount required to
15 be paid by the vendor shall be paid by check or, if paid by other means, shall be deposited
16 directly into the gaming checking account of the permittee or operator.

17 (k) All money paid to a registered vendor under this section by a permittee or operator
18 shall be paid by check only, and the check may not be drawn in a manner that the payee is not
19 identified.

20 (l) The department may not issue a vendor registration for a person who would be
21 ineligible for issuance of an operator's license because of AS 05.15.122(c), or who employs in
22 a managerial or supervisory capacity a person who would be ineligible for issuance of an
23 operator's license because of AS 05.15.122(c).

24 (m) A registered vendor may not employ a person in a managerial or supervisory
25 capacity if the person would be ineligible for issuance of an operator's license because of
26 AS 05.15.122(c).

27 * Sec. 14. AS 05.15 is amended by adding a new section to read:

28 Sec. 05.15.195. ORDER PROHIBITING ACTION IN VIOLATION OF CHAPTER. (a)
29 If the commissioner determines that a person has engaged in an act or practice in violation of this
30 chapter or a regulation adopted under this chapter, the commissioner may, after giving reasonable
31 notice to the person and an opportunity for the person to be heard, issue an order prohibiting the

1 violation by the person. The order remains in effect until the person has submitted evidence
2 acceptable to the commissioner showing that the violation has been corrected.

3 (b) If the public interest requires, the commissioner may issue an emergency order
4 prohibiting an act or practice in violation of this chapter or a regulation adopted under this
5 chapter without notice to or an opportunity to be heard by the person affected by the order. The
6 commissioner shall immediately serve the person with a copy of the emergency order. An
7 emergency order expires 60 days after the date it is issued, if the person affected by the order
8 requests a hearing within 15 days of receipt of the order. If the person does not request a hearing
9 within 15 days of receipt of the emergency order, the order becomes permanent. Following a
10 hearing, the commissioner may rescind, modify, or make permanent the emergency order.

11 (c) A party aggrieved by an order under this section may appeal to the superior court.

12 * Sec. 15. AS 05.15.200(b) is amended to read:

13 (b) A person who, with the intent to mislead a public servant in the performance of the
14 public servant's duty, submits a false statement in an application for a permit, license, or vendor
15 registration under this chapter [,] is guilty of unsworn falsification.

16 * Sec. 16. AS 05.15.210 is amended by adding new paragraphs to read:

17 (35) "ideal net" means an amount equal to the total amount of receipts that would
18 be received if every individual pull-tab ticket in a series were sold at face value, less the prizes
19 to be awarded for that series;

20 (36) "permittee" means a municipality or a qualified organization that holds a
21 valid permit under AS 05.15.100;

22 (37) "vendor" means a business whose primary activity is not regulated by this
23 chapter but that is engaged in the sale of pull-tabs on behalf of a permittee or operator, holds a
24 business license under AS 43.70, and is

25 (A) a retail establishment;

26 (B) an eating establishment; or

27 (C) an establishment licensed under AS 04.11. (Ban)

28 * Sec. 17. This Act takes effect immediately under AS 01.10.070(c).

Drew

3/15/91

WORK DRAFT

WORK DRAFT

This not cleared this
draft with my folks yet. Will
meet with them on Saturday.

Please use this as an
unidentified basis. In other
words, don't tag me as anyone
else as author, until I get
clearance. (love)
Miki

7 LS0958A
Gaguine
3/12/91

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY .

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to charitable gaming; and providing for an effective date."

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

3 * Section 1. AS 05.15.060 is amended to read:

4 Sec. 05.15.060. REGULATIONS. The department shall adopt regulations under the
5 Administrative Procedure Act (AS 44.62) necessary to carry out this chapter covering, but not
6 limited to,

7 (1) the issuance, renewal, and revocation of permits, [AND] licenses, and vendor
8 registrations;

9 (2) a method of ascertaining net proceeds, the determination of items of expense
10 that may be incurred or paid, and the limitation of the amount of the items of expense to prevent
11 the proceeds from the activity permitted from being diverted to noncharitable, noneducational,
12 nonreligious, or profit-making organizations, individuals, or groups;

13 (3) the immediate revocation of permits, [AND] licenses, and vendor
14 registrations authorized under this chapter if this chapter or regulations adopted under it are

Section 1 - only add vendors
under Regulations

1 violated;

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

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

7 (6) [EXCLUSION FROM PARTICIPATION AS A PERMITTEE, LICENSEE,
8 OR EMPLOYEE OF A PERMITTEE OR LICENSEE, OF A PERSON CONVICTED OF, IN
9 PRISON FOR, OR ON PAROLE FOR A FELONY WITHIN THE PRECEDING FIVE YEARS,
10 OR CONVICTED OF A CRIME INVOLVING THEFT OR DISHONESTY OR OF A
11 VIOLATION OF A MUNICIPAL, STATE, OR FEDERAL GAMBLING LAW;

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

14 (7) [(8)] the number of activities that may be held, operated, or conducted under
15 a permit during a specified period; however, the department may not allow more than 14 bingo
16 sessions a month and 35 bingo games a session to be conducted under a permit;

17 (8) [(9)] a method of accounting for receipts and disbursements by operators,
18 including the keeping of records and requirements for the deposit of all receipts in a bank;

19 (9) [(10)] the disposition of funds in possession of a permittee, [OR] a person,
20 municipality, or qualified organization that possesses an operator's license, or a registered
21 vendor at the time a permit, [OR] a license, or a vendor registration is surrendered, revoked,
22 or invalidated;

23 (10) [(11)] restrictions on the participation by employees of the Department of
24 Fish and Game in salmon classics;

25 (11) [(12)] other matters the commissioner considers necessary to carry out this
26 chapter or protect the best interest of the public.

27 * Sec. 2. AS 05.15.070 is amended to read:

28 Sec. 05.15.070. EXAMINATION OF BOOKS AND RECORDS. The commissioner may
29 examine or have examined the books and records of a permittee, an operator, a registered
30 vendor, or a person licensed to manufacture or to distribute pull-tab games in the state. The
31 commissioner may issue subpoenas for the attendance of witnesses and the production of books,

*Section not - by drafters
became id removed in
Section #4 of bill*

Added text

records, and other documents.

* Sec. 3. AS 05.15.115 is amended by adding a new subsection to read:

(e) A contract between a permittee and an operator under this section for the conduct of pull-tab games shall provide that the permittee must receive at least 30 percent of the ideal net for each pull-tab series sold by the operator under the contract.

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

(c) The department may not issue an operator's license to an applicant if the applicant or a person employed by the applicant in a managerial or supervisory capacity, has been convicted of,

(1) a felony violation of the laws of the state, the United States, or another state or territory relating to controlled substances or gambling;

(2) in prison for, or on parole for a felony other than a felony described in (1) of this subsection within the preceding five years; [,] or

(3) a misdemeanor [CONVICTED OF A CRIME] involving theft or dishonesty or involving [OF] a violation of a municipal, state, or federal gambling law within the preceding five years.

* Sec. 5. AS 05.15.122(d) is amended to read:

(d) A licensee may not employ a person in a managerial or supervisory capacity if the person would not be eligible for issuance of a license under (c) of this section [HAS BEEN CONVICTED OF, IN PRISON FOR, OR ON PAROLE FOR A FELONY WITHIN THE PRECEDING FIVE YEARS, OR CONVICTED OF A CRIME INVOLVING THEFT OR DISHONESTY OR OF A VIOLATION OF A MUNICIPAL, STATE, OR FEDERAL GAMBLING LAW].

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

(b) In an application for a permit, a municipality or qualified organization shall disclose the name and address of each person responsible for the operation of the activity and whether any person named

(1) would be ineligible for issuance of an operator's license because of AS 05.15.122(c) [HAS BEEN CONVICTED OF, IN PRISON FOR, OR ON PAROLE FOR A FELONY WITHIN THE PRECEDING FIVE YEARS, OR CONVICTED OF A CRIME INVOLVING THEFT OR DISHONESTY OR OF A VIOLATION OF A MUNICIPAL, STATE,

This gives 30% to charities and 70% to non operators purchase

New section to clean up felony section

Makes sure that not all employees are covered, only those who need to

1 OR FEDERAL GAMBLING LAW]; or

2 (2) has a prohibited financial interest, as defined in regulations adopted by the
3 commissioner, in the operation of the activity.

4 * Sec. 7. AS 05.15.140(c) is amended to read:

5 (c) The commissioner may not issue a permit for an activity operated by a person
6 described in (b)(1) of this section [WHO HAS BEEN CONVICTED OF, IN PRISON FOR, OR
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*See also
lead to new
felony job*

10 * Sec. 8. AS 05.15.160(a) is amended to read:

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

- 14 (1) goods, wares, and merchandise necessary for the operation of the activity;
- 15 (2) personal services involved with the operation of the activity, including those

16 performed by

17 (A) an employee of the permittee; or

18 (B) an operator hired by the permittee to conduct the activity [IF THE

19 COMPENSATION IS NOT RELATED TO THE RECEIPTS FROM THE ACTIVITY].

*Allows for
payment*

20 * Sec. 9. AS 05.15.170 is repealed and reenacted to read:

21 Sec. 05.15.170. SUSPENSION OR REVOCATION OF PERMIT, LICENSE, OR
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23 or revoke a permit, license, or vendor registration, after giving notice to and an opportunity to
24 be heard by the permittee, licensee, or vendor, if the permittee, licensee, or vendor

25 (1) violates or fails to comply with a requirement of this chapter or of a regulation
26 adopted under this chapter;

27 (2) breaches a contractual agreement with a permittee, licensee, or registered
28 vendor;

29 (3) is convicted of a felony, of a crime involving theft or dishonesty, or of a
30 violation of a municipal, state, or federal gambling law; for the purposes of this paragraph, a
31 permittee, licensee, or vendor that is not a natural person is considered convicted if an owner or

1 manager of the permittee, licensee, or vendor is convicted; or

2 (4) knowingly submits false information to the department or, in the case of a
3 registered vendor, to a permittee or operator when the vendor knows that the false information
4 will be submitted to the department as part of an application for registration.

5 (b) If the department revokes a license or vendor registration under this section, it may
6 prohibit the licensee or vendor from reapplying for a license or vendor registration for a period
7 of not more than five years. If the department revokes a permit under this section, it may
8 prohibit the permittee from reapplying for a permit for a period of not more than one year.

9 * Sec. 10. AS 05.15.183 is amended by adding a new subsection to read:

10 (e) A distributor may not

11 (1) take an order for the purchase of a pull-tab series from a vendor;

12 (2) sell a pull-tab series to a vendor; or

13 (3) deliver a pull-tab series to a vendor, except as authorized by AS 05.15.185.

14 * Sec. 11. AS 05.15.185 is amended to read:

15 Sec. 05.15.185. DISTRIBUTION OF PULL-TAB GAMES. Each series of pull-tabs
16 distributed in the state must be sealed and have a serial number label issued by the National
17 Association of Fundraising Ticket Manufacturers or other serial number label approved by the
18 department and may be distributed only to

19 (1) a municipality or a qualified organization that has obtained a permit issued
20 under this chapter;

21 (2) [OR TO] an operator on behalf of an authorizing permittee; or

22 (3) a vendor registered under this chapter when

23 (A) a permittee or operator has received payment from the vendor in
24 the amount and form set out in AS 05.15.188(j), and the permittee or operator has
25 authorized the distributor to distribute the series to the vendor; and

26 (B) the permittee or operator has paid to the distributor the pull-tab
27 tax under AS 05.15.184.

28 * Sec. 12. AS 05.15.187 is amended by adding new subsections to read:

29 (h) An owner, manager, or employee of a person holding a permit or license under this
30 chapter, or registered under this chapter as a vendor, may not purchase a pull-tab from a pull-tab
31 series manufactured, distributed, or sold by the permittee, licensee, or registered vendor.

1 (i) A permittee, operator, or registered vendor may not turn over a prize of \$50 or more
2 to a person with a pull-tab card entitling the person to that prize unless the person signs a receipt
3 for the prize and returns the receipt to the permittee, operator, or vendor. The pull-tab card
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9 first registers the vendor with the department by applying for registration on a form prescribed
10 by the department and by submitting the registration fee of \$50 for each location at which the
11 vendor will sell pull-tabs.

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13 within 15 working days of receipt of the registration form from a permittee or operator.

14 (c) Upon approval of the vendor registration, the department shall issue an endorsement
15 to the permittee's permit or the operator's license that authorizes the conduct of pull-tab sales at
16 that vendor location.

17 (d) The endorsement issued under (c) of this section is an extension of the permittee's
18 or operator's privilege under AS 05.15.100 to conduct pull-tab sales in this state. A vendor may
19 not sell a pull-tab series until a copy of the permit or license containing the endorsement for the
20 new vendor location has been posted by the permittee or operator in the registered vendor
21 establishment. The endorsed permit or license must be clearly visible to the gaming public.

22 (e) A separate endorsement shall be issued for each vendor location. The permittee or
23 operator shall inform the department when a vendor with whom the permittee or operator is
24 contracting changes the physical location at which pull-tabs are sold, and shall return to the
25 department all copies of a permit or license endorsed to a vendor that is no longer selling pull-
26 tabs on behalf of the permittee or operator. Failure to inform the department of a change in
27 vendor location, or to return the endorsed copies of a permit or license to the department after
28 a vendor change, may constitute grounds for the suspension or revocation of a permittee's permit
29 or an operator's license.

30 (f) At the time that a permittee or operator annually renews its permit or license, it shall
31 also renew the registration of all locations where a vendor is selling pull-tabs on the permittee's

1 or operator's behalf and shall pay a registration fee of \$50 for each vendor location.

2 (g) A permittee or operator that uses a vendor to sell pull-tabs on its behalf shall enter
3 into a written contract with that vendor. The department may inspect this contract. If the
4 contract contains provisions that violate this chapter or the regulations adopted under it, the
5 department may declare the contract void, and may suspend or revoke the registration of the
6 vendor and the license of the operator or the permit of the permittee.

7 (h) Except as provided in AS 05.15.185, a person, other than a permittee's member-in-
8 charge or an operator, may not directly supply a pull-tab series to a registered vendor for sale
9 by that vendor on behalf of the permittee or operator.

10 (i) If a permittee contracts with a vendor under (a) of this section, the contract must
11 provide that the permittee shall receive no less than 65 percent of the ideal net.

12 (j) Except as provided in AS 05.15.185(3)(A), an amount equal to the ideal net less the
13 compensation owed to the vendor shall be paid by the vendor to the member in charge, operator,
14 or distributor upon delivery of a pull-tab series to the vendor for sale. The amount required to
15 be paid by the vendor shall be paid by check or, if paid by other means, shall be deposited
16 directly into the gaming checking account of the permittee or operator.

17 (k) All money paid to a registered vendor under this section by a permittee or operator
18 shall be paid by check only, and the check may not be drawn in a manner that the payee is not
19 identified.

20 (l) The department may not issue a vendor registration for a person who would be
21 ineligible for issuance of an operator's license because of AS 05.15.122(c), or who employs in
22 a managerial or supervisory capacity a person who would be ineligible for issuance of an
23 operator's license because of AS 05.15.122(c).

24 (m) A registered vendor may not employ a person in a managerial or supervisory
25 capacity if the person would be ineligible for issuance of an operator's license because of
26 AS 05.15.122(c).

27 * Sec. 14. AS 05.15 is amended by adding a new section to read:

28 Sec. 05.15.195. ORDER PROHIBITING ACTION IN VIOLATION OF CHAPTER. (a)
29 If the commissioner determines that a person has engaged in an act or practice in violation of this
30 chapter or a regulation adopted under this chapter, the commissioner may, after giving reasonable
31 notice to the person and an opportunity for the person to be heard, issue an order prohibiting the

1 violation by the person. The order remains in effect until the person has submitted evidence
2 acceptable to the commissioner showing that the violation has been corrected.

3 (b) If the public interest requires, the commissioner may issue an emergency order
4 prohibiting an act or practice in violation of this chapter or a regulation adopted under this
5 chapter without notice to or an opportunity to be heard by the person affected by the order. The
6 commissioner shall immediately serve the person with a copy of the emergency order. An
7 emergency order expires 60 days after the date it is issued. If the person affected by the order
8 requests a hearing within 15 days of receipt of the order. If the person does not request a hearing
9 within 15 days of receipt of the emergency order, the order becomes permanent. Following a
10 hearing, the commissioner may rescind, modify, or make permanent the emergency order.

11 (c) A party aggrieved by an order under this section may appeal to the superior court.

12 * Sec. 15. AS 05.15.200(b) is amended to read:

13 (b) A person who, with the intent to mislead a public servant in the performance of the
14 public servant's duty, submits a false statement in an application for a permit, license, or vendor
15 registration under this chapter [,] is guilty of unsworn falsification.

16 * Sec. 16. AS 05.15.210 is amended by adding new paragraphs to read:

17 (35) "ideal net" means an amount equal to the total amount of receipts that would
18 be received if every individual pull-tab ticket in a series were sold at face value, less the prizes
19 to be awarded for that series;

20 (36) "permittee" means a municipality or a qualified organization that holds a
21 valid permit under AS 05.15.100;

22 (37) "vendor" means a business whose primary activity is not regulated by this
23 chapter but that is engaged in the sale of pull-tabs on behalf of a permittee or operator, holds a
24 business license under AS 43.70, and is

25 (A) a retail establishment;

26 (B) an eating establishment; or

27 (C) an establishment licensed under AS 04.11.

28 * Sec. 17. This Act takes effect immediately under AS 01.10.070(c).

9/22 DP 5445 - Gov Bill
Rod - ONLY W/M
FUT.
Call Done 267-6305

directly in file.

She met w/

Bob Thomas regarding
this.

Chung

PROBLEMS:

- 1) PILOCUMMANT CODE
- 2) DEPT S/F ADMIN
- 3) COMMISSION COMPENSATION

Gov PROBABLY OPPOSES

Bob Thomas

Hansen has copy -

IN THE SENATE

BY

SENATE BILL NO.

Bob needs
to meet with

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

Hansen - says
Hickel may be
interested.

A BILL

*Sec. 1. FINDINGS AND PURPOSE. (a) The legislature finds that

(1) non-profit health and human service agencies enhance the quality of life in the state by providing programs of assistance for those citizens with special needs beyond that being served by the current health and human service programs funded by the state;

(2) non-profit health and human service agencies provide programs of assistance in virtually all communities of the state;

(3) actual and projected reduced funding assistance by state government has and will continue to decrease both the level of service and the number of individuals receiving services from non-profit health and human service agencies;

(4) actual and projected reduced funding assistance by state government will continue to cause a reduction of the number of non-profit health and human service agencies in the state;

(5) the amount of revenue generated by a state lottery may be sufficient to maintain present levels of operation of the current health and human service agencies and help to perpetuate their unique and invaluable contributions to the quality of life in the state;

(6) the legislature will best serve the public interest by establishing a state lottery, the proceeds of which shall be deposited in a special account within the general fund to be appropriated by the legislature to fund first the necessary operations of non-profit health and human service agencies on a "need" basis and then other state programs as the proceeds allow.

(b) The purposes of this Act are to

(1) ensure the continued existence and operation of a health and human service agency network by creating a special account within the general fund known as the lottery grants account;

(2) establish the Alaska State Lottery Commission within the Department of Administration, to administer, promote, and conduct a state lottery, the proceeds of which shall be deposited in the lottery grants account of the general fund for appropriation by the legislature to fund grants to Alaska non-profit health and human service agencies and for other purposes as determined by the legislature.

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

CHAPTER 18. STATE LOTTERY.

ARTICLE 1. ADMINISTRATION.

Sec. 05.18.0101. CREATION OF ALASKA STATE LOTTERY COMMISSION. The Alaska State Lottery Commission is established for the purpose of generating revenue for the support of non-profit health and human service providers in the State of Alaska, and for other expenses of the state. The Commission is an instrumentality of the state within the Department of Administration.

Sec. 05.18.020. POWERS OF THE COMMISSION. (a) The powers of the Commission are vested in the Board of Commissioners. The Commission consists of the commissioner of administration and four members appointed by the governor and subject to confirmation by the legislature under AS 39.05.080. One member appointed to the Commission shall have at least three years of experience in the administration of physical and mental health related human service programs in the state; one member appointed to the Commission shall have at least three years of involvement in statutory and regulatory enforcement of charitable gaming, lotteries, or gambling enterprises; and two members appointed to the Commission shall be public members. Appointed members of the Commission shall qualify under AS 39.05.100. No more than three of the five

members may be members of the same political party. The governor shall designate an appointed member to serve as chair of the Commission.

(b) Appointed members serve staggered terms of four years, and may be reappointed. A vacancy on the Commission does not impair the authority of the Commission to exercise the powers and perform the duties of the Commission.

(c) The governor may remove a member of the Commission. A removal by the governor shall be in writing and shall state the reason for the removal. A member who is removed by the governor may not participate in Commission business and may not be counted for purposes of establishing a quorum after the person receives written notice of removal.

(d) An appointed member of the Commission is entitled to compensation at a rate of \$150 for each day the member is engaged in the actual performance of duties as a member of the Commission. The Commission may provide by regulation for compensation for partial days during which an appointed member is engaged in actual performance of duties as a member of the Commission.

(e) In addition to compensation under (d) of this section, an appointed member of the Commission is entitled to per diem and travel expenses authorized for members of boards and commissions under AS 39.20.180.

Sec. 05.18.030. MEETINGS. (a) The Commission shall meet at least quarterly at the call of the chair, at the request of a majority of the members, or at a regularly scheduled time set by the Commission.

(b) An action of the Commission is not binding unless taken at a meeting where three or more of the members are present and vote in favor of the action.

Sec. 05.18.040. DUTIES AND POWERS OF THE COMMISSION. (a) The Commission is responsible for the management of the lottery but shall contract with a service provider for day to day operation of the lottery.

(b) The Commission shall determine procedures for awarding the contract for operation of the day-to-day conduct of the lottery and provide for preferential consideration of Alaskan owned vendors.

(c) The Commission may condition the exercise of a power or duty delegated to the Contractor.

(d) In managing the lottery the Commission shall

(1) be responsible for the management of the financial and legal obligations of the lottery;

(2) generally manage the lottery on a self-sustaining basis for the purpose of revenue generation;

(3) determine policy direction for the operation and administration of the lottery;

(4) report to the governor and the legislature each quarter on the total lottery revenue, prize disbursement, and other expenses for the preceding quarter;

(5) report to the governor and the legislature each year, including a full and complete statement of lottery revenue, prize disbursement, and other expenses, and recommendations for changes in this chapter;

(6) report to the governor and the legislature as frequently as the Commission determines necessary on the reaction of state residents to the lottery, and on matters that require changes in the law to prevent violations or evasions of this chapter or to correct undesirable conditions in connection with the operation or administration of the lottery;

(7) monitor the operation of the lottery throughout the state; and

(8) study and investigate the operation and administration of the lottery laws of other states and federal laws that affect the lottery.

(b) The Commission may do all things necessary and appropriate to exercise the Commission's duties and powers under this chapter.

Sec. 05.18.050. REGULATIONS. (a) The Commission shall adopt regulations under the Administrative Procedure Act (AS 44.62) to establish

- (1) the type of lottery to be conducted;
- (2) the price of lottery products;
- (3) the numbers and sizes of the prizes for the winning lottery products;
- (4) the manner of selecting the winning products;
- (5) the frequency of the drawings or selections of winning lottery products;
- (6) the type and number of locations where lottery products may be sold;
- (7) the method to be used in selling lottery products;
- (8) the manner of payment of prizes to the holders of the winning lottery products;
- (9) the procedures for contracting with persons to be agents;
- (10) the manner and maximum amount of compensation to be paid agents;
- (11) the prizes that an agent or an employee of the agent can award; and
- (12) other matters necessary or desirable to carry out this chapter, to operate the lottery efficiently and economically, and to make the purchase of lottery products and the distribution of prizes convenient.

(b) The Commission shall adopt regulations under the Administrative Act (AS 44._____) to establish

- (1) the qualifications to be met by nonprofit health and human service agencies for consideration of funding from the lottery grants program;
- (2) the procedures for nonprofit health and human agencies to apply for consideration for funding from the lottery grants account.

Sec. 05.18.070. DUTIES OF CONTRACTOR. (a) The Contractor shall

- (1) conduct the operation and day to day administration of the lottery;
- (2) contract with agents to sell lottery products;
- (3) meet at least quarterly with the Commission on the operation and administration of the lottery;
- (4) make available for inspection by the Commission, upon request, all books, records, files, and other information and documents of the Contractor;
- (5) advise the Commission and make recommendations to improve the operation and administration of the lottery;
- (6) suspend or revoke a contract issued under this chapter for a violation of this chapter or the regulations adopted under this chapter;
- (7) subject to the approval of the Commission, enter into contracts for the operation and administration of the lottery, except that agent contracts are not subject to the approval of the Commission; and
- (8) provide each month to the Commission a full and complete statement of the lottery revenue, prize disbursements, and other expenses for the preceding month.

(b) The Contractor may not employ a person who has been convicted, including conviction based on a guilty plea or plea of no contest, of a felony or other crime if the felony or other crime is substantially related to the qualifications, functions, or other duties of the employee.

Sec. 05.18.080. SUBPOENAS. (a) The Commission may subpoena witnesses and documents in a matter subject to the jurisdiction of the Commission. The Commission may administer oaths and affirmations to persons whose testimony is required.

(b) If a person fails to obey a subpoena, or if a person refuses to answer a relevant question or to submit a document when ordered to do so by the Commission, the

Commission may apply to the superior court for an order directing the person to comply with the subpoena or the order. The court may order the person to comply.

ARTICLE 2. LOTTERY RETAIL SALES AGENTS.

Sec. 05.18.100. LOTTERY RETAIL SALES AGENTS. (a) The Contractor may contract with persons on behalf of the Commission to be lottery retail sales agents.

(b) A lottery retail sales agent may

- (1) sell lottery products;
- (2) award prizes as allowed under regulations of the Commission; and
- (3) hire employees to perform the services under (1) and (2) of this

subsection.

(c) An agent shall supervise each employee of the agent in the employee's performance of services under (b) (1) and (2) of this section.

Sec. 05.18.110. QUALIFICATIONS FOR SALES AGENT CONTRACTS.

(a) A person who wishes to contract with the Contractor to be a sales agent shall apply on a form provided by the Commission. The Contractor may charge the applicant a fee to cover the costs of processing the application and checking the background of the applicant.

(b) Before contracting with an applicant to be an agent, the Contractor shall consider

- (1) the financial responsibility and security of the applicant and the applicant's business or activity;
- (2) the accessibility of the applicant's place of business or activity to the public;
- (3) the ability of the applicant to promote the retail sale of lottery products;
- (4) the sufficiency of existing agent contracts to serve the public convenience;
- (5) the volume of expected sales; and

(6) other factors the Contractor determines are relevant.

(c) The Contractor may not contract with an applicant to be an agent if the applicant

(1) is an individual who is not a resident of the state or is not a corporation, partnership, or association licensed to conduct business in the state;

(2) would be engaged in business exclusively as an agent;

(3) is an individual under the age of 18; or

(4) has been convicted of a felony that is substantially related to the functions or duties of an agent or gambling misdemeanor, including a conviction based on a guilty plea or plea of no contest.

Sec. 05.18.120. DURATION OF SALES AGENT CONTRACTS. The Contractor may contract with an agent for a term of not more than two years. subject to AS 05.18.110, the Contractor may renew the contract for successive terms of not more than two years.

Sec. 05.18.130. REVOCATION OR SUSPENSION OF SALES AGENT CONTRACTS. (a) The Contractor may suspend or cancel the contract of an agent who violates 05.18.320.

(b) The Contractor may suspend or cancel the contract of an agent who violates a regulation adopted under this chapter or a provision of this chapter other than AS 05.18.320.

Sec. 05.18.140. COMPENSATION OF SALES AGENTS. (a) The Contractor shall establish the levels of compensation for agents. The contractor may establish bonus or incentive awards.

(b) When establishing the compensation for sales agents, the Contractor shall consider

(1) the time and the cost of overhead necessary to make the lottery products available at convenient times and for sufficient hours to accommodate the public;

(2) the time necessary for an agent to keep adequate records of the sales of lottery products and to prepare the deposits and reports required under AS 05.18.150;

(3) other criteria the Commission considers relevant.

Sec. 05.16.150. DEPOSIT OF RECEIPTS AND REPORTS. (a) The Contractor shall deposit to the credit of the state in a bank designated by the commissioner of administration all net due proceeds from the sale of lottery products;

(b) The Commission shall determine the schedule for deposits of net due proceeds by the Contractor.

(c) Every month the Contractor shall file with the Department of Administration summary reports of the receipts and transactions in the sale of lottery products.

ARTICLE 3. PRIZES.

Sec. 05.18.200. ASSIGNMENT OF PRIZES. A person may not assign a right to a prize under this chapter. A prize may be paid to a person other than the prize winner under a court order or to the estate of a deceased prize winner or to the Department of Administration for deposit in the general fund to satisfy a judgment in favor of the state against the prize winner. The state is discharged of all further liability when a prize has been paid under this section.

Sec. 05.18.210. PAYMENT OF PRIZES TO PERSONS UNDER 18 YEARS.

(a) If a person entitled to a prize is under the age of 18 years, and if the prize is \$5,000 or less, the Commission may deliver the prize to an adult member of the minor's family, or to a guardian of the minor, in the form of a check or draft payable to the order of the minor. If the prize is more than \$5,000, the Commission may deliver the prize by depositing the amount of the prize in a bank to the credit of an adult member of the minor's family, or a guardian of the minor, as custodian for the minor. The person named as custodian shall have the same duties and powers as a person designated as a custodian under AS 45.60.

(b) The state is discharged of all further liability after payment of prize to a minor under this section.

(c) In this section, the terms "bank," "guardian," and "member" of a "minor's family" have the meanings given in AS 45.60.091.

Sec. 05.18.220. UNCLAIMED PRIZE MONEY. The Commission shall retain unclaimed prize money for the person entitled to it for one year after the prize is awarded. The prize may not be claimed after one year from its award. If the winner does not claim the prize money within the year, the Commission shall transfer the money and accrued interest to the lottery grants account.

ARTICLE 4. MISCELLANEOUS PROVISIONS.

Sec. 05.18.300. LOTTERY GRANTS ACCOUNT AND APPROPRIATIONS. There is created in the general fund the lottery grants account. The account consists of the proceeds received from the sale of lottery products and all other money credited or transferred to the account. The commissioner of administration shall separately account for money deposited in the account. The annual estimated balance in the account shall first be used by the legislature to make appropriations to the lottery grants account to carry out the purposes of this chapter. That portion of the annual estimated balance in the account that is not necessary for the support of the health and human service agencies lottery grants account may be appropriated to other purposes as the legislature considers appropriate.

Sec. 05.18.310. AUDIT. The Commission shall have an audit of the books and accounts of the contractor performed at least once each year by certified public accountants. The Commission may have special audits performed at any time on its own motion. The Commission shall file a copy of each audit with the commissioner of administration and the legislature.

Sec. 05.18.320. PROHIBITED ACTS. (a) A person may not

- (1) act as an agent or sell a lottery product unless the person has a contract with the Commission to be an agent, or is an employee of an agent and sells lottery products or awards lottery prizes under the supervision of the agent;

(2) sell a lottery product at a price greater than that fixed by the Contractor;

(3) sell or offer to sell a lottery product to a person under the age of 18;

(4) knowingly present a counterfeit or altered lottery product for payment or transfer a counterfeit or altered lottery product to another person to present for payment;

(5) with intent to defraud, falsely make, alter, forge, utter, pass, or counterfeit a lottery product; or

(6) impersonate a lottery representative.

(b) An agent, a member of the Commission, or an officer or employee of the Contractor may not purchase a lottery product or receive a lottery prize.

(c) An agent may not willfully withhold funds owed to the Contractor.

(d) This section does not prohibit a person from giving a lottery product to another person of any age.

Sec. 05.18.330. ASSIGNMENT OF CONTRACTS. A person who enters into a contract under this chapter may not assign the contract without the approval of the Commission.

Sec. 05.18.340. PENALTY. A person who violates AS 05.18.150, 05.18.160, 05.18.200, 05.18.320, or 05.18.330 is guilty of a class C felony.

Sec. 05.18.980. APPLICABILITY OF OTHER LAWS. Unless specifically provided otherwise in this chapter, the following laws do not apply to the operations of the Commission:

(1) AS 05.15;

(2) state procurement laws, including AS 36.30, except as specifically provided in that chapter.

Sec. 05.18.990. DEFINITIONS. In this chapter, unless the context requires otherwise.

(1) "agent" means a person who has contracted with the commission to be a lottery retail sales agent under this chapter;

(2) "agent contract" means a contract under AS 08.18.100 between the commission and an agent;

(3) "Commission" means the Alaska State Lottery Commission;

(4) "Contractor" means the vendor under contract with the Commission to conduct day-to-day operations of the lottery;

(5) "lottery" means the lottery established and operated under this chapter;

(6) "lottery product" means a ticket, receipt, card, or other item, except a lottery prize, received by a person from an agent or an employee of an agent as evidence of participation in the lottery;

(7) "operation and administration" includes accounting, sales, promotion, enforcement, and security;

(8) "person" has the meaning given in AS 01.10.060 and also includes an estate, receiver, trustee, assignee, referee, or other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and a department, commission, agency or instrumentality of the state, including municipalities and the agencies and instrumentalities of municipalities.

*Sec. 3. AS 36.30.015(e) is amended to read:

(LANGUAGE NECESSARY FROM EXECUTIVE ORDER #50, SHOULD BE SIMILAR TO THAT WHICH ESTABLISHES THE ALASKA PUBLIC BROADCASTING COMMISSION)

*Sec. 4. AS 36.30.050(c) is amended to read:

(c) The lists may be used by the chief procurement officer or an agency when issuing invitations to bid or requests for proposals under this chapter. The lists may be

used by the Alaska Legislative Council, the court system, the Alaska State Lottery Commission, the Alaska State Building Authority, and the Alaska Railroad Corporation.

*Sec. 5. AS 36.30.990(1) is amended to read:

(1) "agency" means a department, institution, commission, division, authority, public corporation, the Alaska Pioneers' Home, or other administrative unit of the executive branch of the state government, except for the University of Alaska, the Alaska State Building Authority, the Alaska State Lottery Commission, and the Alaska Railroad Corporation; it does not include a regional Native housing authority created under AS 18.55.996, or a regional electrical authority created under AS 18.57.020;

*Sec. 6. AS 39.25.110(11) is amended by adding a new subparagraph to read:

Alaska State Lottery Commission;

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

Alaska State Lottery Commission (AS 05.18).

*Sec. 8. Sections 1, 2, 6, and 7 of this Act take effect July 1, 1987.

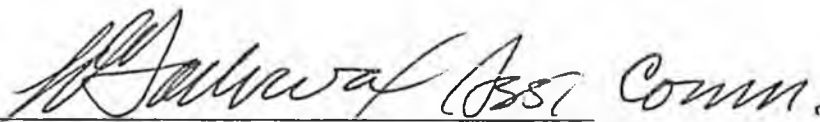
*Sec. 9. Sections 3 - 5 of this Act take effect on the effective date of sec. 2, ch. 106, SLA 1986.

CSSSSB 6 "An Act relating to charitable gaming; and providing for an effective date."

The department was given responsibility for administration of the Alaska Gaming Reform Act in July of 1989. Since that time, the department has been actively engaged bringing stability and equality of enforcement to the charitable gaming industry.

Of major concern to the department has been the so-called "third party vendor" issue. Prior to January 1, 1991 and the issuance of the Attorney General's opinion on October 24, 1990, both permittees and operators used vendors (e.g., retail outlets, bars, restaurants) to sell pull-tabs on their behalf. That activity has stopped, except for a very limited basis. Should legislation recognizing vendors as an authorized class not be passed this session, the emergency regulations, adopted January 16, 1991, will be made permanent as well as those proposed regulations of November 6, 1990 on which we have already held public hearings. Vendors cannot be authorized by regulation to conduct gaming activity.

As a whole, the committee substitute addresses the major concerns the department has had with regard to the vendor issue and increasing the minimum percentage required to be paid to the authorizing permittee by licensed operators. With these amendments to the Gaming Reform Act of 1988, we feel that all participants within the gaming industry will benefit, especially the nonprofit charitable organizations which were originally intended to benefit when charitable gaming was first authorized in 1960.


Glenn A. Olds, Commissioner
Date: 4-15-91

GAO/JNH/KP/dgl9391D
041591a

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

APR 3 1991

WALTER J. HICKEL, GOVERNOR

P.O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2534

April 3, 1991

Honorable Drue Pearce, Chairperson
Senate Labor & Commerce Committee
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Dear Senator Pearce:

At the work session on gaming legislation held on March 23, 1991, you requested additional information: (1) Existing costs of the Games of Chance and Skill program, and (2) Anticipated costs of the program with the addition of a Gaming Commission.

The following information is enclosed:

- 1) Gaming program costs with the addition of a Gaming Commission.
- 2) FY 91 Gaming Budget (existing program costs).
- 3) Funding Summary.
- 4) Revenue Summary.
- 5) Additional gaming information requested on financial reporting, pull-tab dispensing devices, suspension and revocations, and a copy of Washington's laws concerning pull-tab devices.

If you have any questions regarding the enclosed information, please contact this office.

Sincerely,

Ann Boudreaux

Ann Boudreaux
Director

AB/JS/dg19310D
040391c

Enclosures

cc: John Hansen, Gaming Program Manager

Division of Occupational Licensing

GAMES OF CHANCE & SKILL

Gaming Program with a New Gaming Commission

Gaming Program Costs	715.9	
Gaming Commission Costs (SB 4 fiscal note)	<u>399.1</u>	
Anticipated Costs:		\$ 1,115.0
FY 92 Estimated Revenue		<u>\$ 1,797.1</u>
Excess GF revenue		\$ 682.1

Division of Occupational Licensing

GAMES OF CHANCE & SKILL

FY 91 Gaming Budget

Personal Services:

<u>PCN</u>	<u>POSITION</u>	<u>RANGE</u>	<u>COST</u>
08-2075	Gaming Program Manager	22	\$ 75.2
08-2046	Investigator II	16	58.2
08-2059	Revenue Auditor IV	20	70.2
08-2064	Tax Examiner II	12	45.1
08-2076	(S) Occ. Lic. Examiner I	12	18.3
08-2062	Clerk-Typist III	08	32.7
08-2077	Investigator IV (Anch)	20	63.8
08-2064	Revenue Auditor III (Anch)	18	58.2
08-2060	Investigator III (Fbx)	18	58.4
	Administrative overhead		<u>20.4</u>

Sub-Total: \$500.5

Travel: \$ 48.0

Contractual Services: \$163.1

Supplies: \$ 1.4

Equipment: \$ 2.9

TOTAL: \$715.9

Division of Occupational Licensing

GAMES OF CHANCE & SKILL

Funding Summary

FY 90 FUNDING

Authorization:	\$365.4
Funding was granted with transfer of the program from the Department of Revenue to DCED/Occupaitonal Licensing.	
Budget Increment:	100.0
This funding was provided by budget increment to provide a supervisory position for the gaming program.	
FY 90 Sub-Total:	\$465.4

FY 91 FUNDING

Budget Increments:	\$100.00
Funding was provided for two (2) positions:	
1) Investigator III	\$72.3;
2) Seasonal Occupational Licensing Examiner I	\$27.7.
Budget Amendments:	\$ 150.5
Funding was provided for the following:	
1) Seasonal Clerk-Typist III	\$21.2;
2) Data Processing Clerk III	\$39.4;
3) Attorney IV	\$89.9
TOTAL:	\$715.9

Division of Occupational Licensing

GAMES OF CHANCE & SKILL

Revenue Summary

FY 90 Revenue: \$ 1,690.2

License/Permit Fees	\$ 99.1
1% Net Proceeds	192.8
3% Pull-Tab Assessment	1,398.3

FY 91 Revenue: (as of 4/2/91) \$ 1,128.4

License/Permit Fees	\$ 85.5
1% Net Proceeds	110.8
3% Pull-Tab Assessment	932.1

(NOTE: FY 91 Revenue was originally estimated at \$1,500.0 and may exceed that amount.)

FY 92 Anticipated Revenue: \$ 1,797.1

License/Permit Fees	\$ 97.1
1% Net Proceeds	170.0
3% Pull-Tab Assessment	1530.0

REQUIRED FINANCIAL REPORTING
TO THE DEPARTMENT

	<u>MONTHLY</u>	<u>//</u>	<u>QUARTERLY</u>	<u>//</u>	<u>ANNUALLY</u>	<u>//</u>	<u>TOTALS</u>
PERMITTEE			X	300	X	1000	2200
OPERATOR			X	21	X	21	105
DISTRIBUTORS	X	31					252
MANUFACTURERS	X	10					<u>120</u>
					GRAND TOTAL		2677

Additionally, operators are required to file with the permittee, monthly, quarterly and annual reports.

The required Report to the Legislature is comprised, in part, on the financial data contained in all of the above reports; therefore, all information contained in the various reports must be data entered into the computer gaming management program.

The 1% net proceeds fee is computed and remitted with the permittee annual financial statement.

The 3% pull-tab tax on ideal net is computed and remitted with the distributor monthly reports. The pull-tab i.d. stamp number, the pull-tab serial number and other identifying information must be data entered for each report.

The pull-tab i.d. stamp number, serial number, distributor and other identifying data must be data entered from the manufacturer monthly report.

INVESTIGATIVE AND AUDIT STATISTICS

INVESTIGATIONS COMPLETED	1990	136
	1991	45
AUDITS COMPLETED	1990	44
	1991	26
INVESTIGATIONS IN PROGRESS	1991	35
AUDITS IN PROGRESS	1991	3

INVESTIGATIONS AND AUDITS NEEDED:

PERMITTEES	400	
OPERATORS	15	
DISTRIBUTOR	15	
NOTICES OF VIOLATION ISSUED	1990	162
	1991	61

COIN-OPERATED PULL-TAB
DISPENSING DEVICES

The Washington State Gambling Commission (WSGC) regulates the types of pull-tab dispensing devices that may be used. Their regulations are somewhat vague in that they don't really specify the actual "mechanics" of the device. The Commission does, however, require that any device proposed for use, and is substantially different from already approved devices, must be INSPECTED and APPROVED by the Commission before the device can be used.

Attached are the applicable rules governing pull-tab devices in Washington. As you can see, WA regulates not only the device itself, but many other facets of the industry. In many instances, WA is considered the "expert" in regulating gaming activities. In fact, they offer to other governmental agencies "training" sessions. These sessions consist of both investigative and auditing techniques as well as tours of pull-tab manufacturing facilities. The "trainee" as part of the session, participate in actual audits of licensees and accompany WSCG staff in observing and auditing a bingo session.

If you are interested in obtaining a complete copy of Washington's statutes and regulations, or any other state, please let me know. I have copies of both statutes and regulations for most, if not all. If you wish to speak with the WSGC directly, their number is (206) 438-7687. The person you should talk to is Randee Kerns.

Kelcy Parsons
Tax Examiner II
Phone (907) 465-3409

SUSPENSION AND REVOCATION

Suspension and/or revocation of a permit is generally used as a "last ditch" remedy when efforts to bring the permittee into compliance are unsuccessful or where the permittee has continued to violate statutes and regulations. Depending upon the nature and severity of the violation, the suspension period may range from two weeks on up. Current statutes and regulations do not specify a minimum or maximum amount of time for suspension. If a permit is revoked, the revocation is one year from the effective date of the revocation per AS 05.15.040.

Under 15 AAC 105.190, the following are grounds for suspension, revocation or denial of a permit or license:

- 1) a false statement made in an application for a permit or license or in a report required under AS 05.15. or this chapter;
- 2) failure to keep sufficient books or records to substantiate year-end reports to the department;
- 3) failure to timely file a report required by AS 05.15. or this chapter;
- 4) the conviction of a permittee or an officer or employee of a permittee of a felony or a crime involving moral turpitude, or a violation of a municipal, state, or federal gambling law;
- 5) knowing violation by a permittee or officer or employee of a permittee of a provision of AS 05.15. or this chapter;
- 6) failure to devote net proceeds in accordance with AS 05.15. or this chapter;
- 7) paying or incurring unreasonable or exorbitant expenses of fees by the permittee or licensee;
- 8) allowing the use of a permit by another organization;
- 9) failure to remit any amount of pull-tab tax to a licensed pull-tab distributor when pull-tabs are acquired or purchased.

Over the years, several suggestions regarding the suspension of permits have been proposed. They are:

- 1) Assign a "point" value to each violation. Each point value would indicate the number of days the permit or license is suspended. The lower the point value, the less number of days the permit or license is suspended.

2) Assign a "point" value to each violation. Once a certain number of "points" have been assessed against a permittee or licensee, the permit or license is suspended. (Much the way the point system works with the drivers license.)

3) Institute monetary fines or penalties for each violation in addition to suspension. The fine or penalty and length of suspension would be dependent upon the nature and severity of the violation.

Of the three suggestions above, the department would recommend number 3. We feel that a fine, in addition to suspension, would go a long way towards bringing the permittees and licensees into compliance.

Past efforts by the limited staff, to maintain consistency in the suspension and/or revocation of a permit have been hampered, due primarily, to the changes in the administration and policy. However, with the implementation of the State I.D. Stamp program for pull-tabs, and this administration's mandate to bring this program into compliance, we believe substantial progress is being made. However, the limited staff and resources we have, will continue to limit our ability to fully implement the 1988 Gaming Reform Act and its regulatory provisions.

Attachment

2941Q

✓WAC 230-30-072 **Punchboard and pull tab inventory and retention requirements.** Each punchboard and pull tab series purchased or otherwise obtained by an operator shall be controlled and accounted for in the following manner:

(1) Each operator shall closely monitor punchboard and pull tab series purchased to assure that all identification and inspection service stamp numbers are correctly entered in all records and each device purchased is recorded. The following control procedures apply:

✓(a) After the close of business on September 30, 1988, and before operating punchboards and pull tabs after that date, each operator shall take a physical inventory of all punchboards and pull tabs in-play and awaiting play and record the following information separately for punchboards and pull tabs:

- (i) Name of game; and
- (ii) I.D. stamp number;

(b) At the time punchboards and pull tabs are delivered, each operator will assure that all purchase invoice data is correct by comparing the actual I.D. stamp numbers on each punchboard/pull tab series to the numbers entered on the purchase invoices;

(c) After December 31, 1988, all purchases of punchboards or pull tabs shall be recorded on a standard distributor's invoice, which includes space for the operator to either attach a records entry label or enter the identification and inspection stamp number and the date the device was placed out for play. For all punchboards or pull tab series purchased after December 31, 1988, the operator shall enter the date and the identification and inspection service stamp number in the space on the invoice, adjacent to the distributors entry, by either attaching a records entry label or by written entry;

(d) After December 31, 1988, if a device is returned to a distributor for any reason, including commission required recall, the operator shall record the date, invoice or credit memo number, and "returned" on the original purchase invoice: Provided, that licensees may use a commission approved inventory log to comply with subsections (c) and (d) of this section;

(2) Each punchboard or pull tab series which is removed from operation, together with the prize flare, all unplayed tabs, and all winning punches or tabs, shall be retained by the operator for at least four months following the last day of the month in which it was removed from play. The board, unplayed tabs, flare, and all winning punches or tabs shall remain available for inspection, on the licensed premises, by commission agents and/or local law enforcement and taxing agencies: Provided, that devices may be stored off premise if they are produced for inspection upon demand;

(3) Each punchboard or pull tab series which is not placed out for public play or returned to the distributor or manufacturer from whom it was originally purchased, must be retained on the licensed premises and made available for inspection by commission agents and/or local law enforcement and taxing agencies: Provided, that devices may be stored off premise if they are produced for inspection upon demand;

(4) Each punchboard or pull tab series which is deemed by the operator to be defective or unplayable, for any reason, shall not be returned to the distributor or manufacturer without approval from the commission. If it is found to be defective after it has been placed out for play, all other rules apply and it must be recorded as required by WAC 230-08-010: Provided, that the retention time required by subsection (2) above may be shortened by the commission upon inspection and written release by a commission agent. [Statutory Authority: RCW 9.46.070 (8), (11) and (14), 88-13-060 (Order 179), § 230-30-072, filed 6/14/88.]

✓WAC 230-30-075 **Minimum percentage of prizes for certain gambling activities.** No operator shall put out for play and no distributor or manufacturer of punchboards and pull tabs shall sell or otherwise provide to any person in this state or for use in this state any punchboard or pull tab series that does not contain the following minimum percentage in prizes:

(1) Punchboards - a minimum of 60 percent respecting each punchboard placed out for public play.

(2) Pull tabs - a minimum of 60 percent respecting each series of pull tabs placed out for public play.

(3) For the purposes of determining the percentage of prizes offered on any punchboard, or in any pull tab series under this section, total merchandise prizes shall be computed at the amount actually paid therefor by the licensed operator plus 50 percent of that actual cost.

✓(4) Single cash prizes on punchboards/pull tabs shall not exceed:

(a) Two hundred in cash; or

(b) A merchandise prize, or combination merchandise prize, for which the operator has not expended more than three hundred dollars.

✓(5) Multiple winners on an individual pull tab or punch shall not exceed the single cash or merchandise prize limit in (4) above. [Statutory Authority: RCW [9.46.]070 (1), (2), and (11) and [9.46.]110. 85-21-046 (Order 154), § 230-30-075, filed 10/14/85. Statutory Authority: RCW 9.46.070(11). 82-06-007 (Order 119), § 230-30-075, filed 2/19/82. Statutory Authority: RCW 9.46.070(10). 79-09-029 (Order 91), § 230-30-075, filed 8/14/79; Order 70, § 230-30-075, filed 5/24/77; Order 43, § 230-30-075, filed 11/28/75.]

✓WAC 230-30-080 **Limitation on pull tab dispensing devices.** (1) No pull tabs shall be placed out for public play unless the total number of pull tabs originally in the series shall be clearly disclosed on the face of the flare advertising the prizes available from that series of pull tabs. The total number of pull tabs originally in the series will be placed upon the flare by the manufacturer prior to the series being sold to a distributor or operator.

(2) No pull tab shall be added to a series of pull tabs after that series has been shipped from its place of manufacture.

(3) No pull tab series, or any portion thereof, shall be placed in, or if a spindle upon, any pull tab dispensing device until any other series of pull tabs previously in, or

upon, the device has been played out or permanently removed from public play.

(4) No pull tab once placed in, or if a spindle upon, a pull tab dispensing device out for public play shall be removed from the dispensing device until the series is permanently removed from public play, except only:

(a) Those pull tabs actually played by consumers,

(b) Those pull tabs removed by representatives of the commission, or other law enforcement agency inspecting the device, and

(c) Those tabs temporarily removed during necessary repair or maintenance of the device.

✓ Excepting only tabs removed under (b) and (c) hereinabove, once a pull tab has been removed from public play it shall not again be put out for public play.

✓ (5) No person shall put out any pull tab series for public play unless the series of pull tabs is wholly contained within, or if a spindle upon, the device used for dispensing that series.

✓ (6) No person shall sell or transfer to another person in this state, or for use within this state, or shall place out for public play any device for the dispensing of pull tabs not so constructed as to allow a consumer to clearly see each pull tab within, or if a spindle upon, the device prior to playing the device. However, a metal plate, not to exceed 3/4 inch in height, may be affixed across the front at the bottom of the dispensing columns of a mechanical pull tab dispensing device.

(7) No person shall sell or transfer to any other person in this state, or for use within this state, or put out for public play any device for the dispensing of pull tabs without permanent lines or markings on the face of the device and clearly visible to the consumer which effectively divide the tabs remaining in the device into divisions of approximately 25 tabs so that the consumer can determine how many tabs remain within the device.

(8) No person shall put out for public play any device for the dispensing of pull tabs which is not so constructed as to provide for at least one selection position for every 400 pull tabs originally in the series in play in the machine.

The following schedule shall be followed in the enforcement of this subsection:

MINIMUM NUMBER OF TABS FROM WHICH SELECTION MUST BE AVAILABLE	THE NUMBER OF TABS ORIGINALLY IN SERIES OF PLAY
1	1 - 400
2	401 - 800
3	801 - 1200
4	1201 - 1600
5	1601 - 2000
6	2001 - 2400
7	2401 - 2800
8	2801 - 3200
9	3201 - 3600
10	3601 - 4000

(9) No person shall sell or transfer to another person in this state, or for use within this state, or put out for

public play, any pull tab series which contains more than 4000 individual pull tabs. [Statutory Authority: RCW 9.46.030 (2) and (3) and 9.46.070 (11) and (14). 83-19-024 (Order 136), § 230-30-080, filed 9/13/83. Statutory Authority: RCW 9.46.070(14). 81-19-073 (Order 112), § 230-30-080, filed 9/15/81. Statutory Authority: RCW 9.46.070(10). 79-07-019 (Order 90), § 230-30-080, filed 6/14/79; Order 55, § 230-30-080, filed 6/25/76; Order 43, § 230-30-080, filed 11/28/75; Order 15, § 230-30-080, filed 4/17/74; Order 9, § 230-30-080, filed 12/19/73, 1:26 p.m.; Order 5, § 230-30-080, filed 12/19/73, 1:25 p.m.]

WAC 230-30-090 All devices must comply with rules. No operator shall display or put out for play, and no distributor or manufacturer or their representatives shall sell or otherwise furnish, any punchboard, series of pull tabs, or device for the dispensing of pull tabs unless such punchboards, pull tabs or devices for the dispensing of pull tabs conform to all requirements of this state's laws and the rules of this commission, as they now exist or are hereafter amended. [Order 18, § 230-30-090, filed 5/21/74.]

WAC 230-30-095 Pull tab dispensing devices to be submitted to commission for approval prior to sale. No pull tab dispensing device shall be put out for public play, or sold or otherwise furnished to any person in this state, or for use within this state, after August 1, 1976 unless and until an identical prototype of that device has first been presented to the commission by its manufacturer and has been approved by the commission for use within this state.

Prototypes, or examples, of such devices shall be presented at the commission's office for staff review, together with an application for commission approval on a form obtained from the commission, not less than 60 calendar days prior to the date by which a commission decision is desired.

The commission shall retain the device actually submitted for approval, or a later production model thereof, at the discretion of the director or the commission. Approval, if granted, shall extend only to the specific device approved and devices exactly like it. If the device is modified in any way, excepting only in color and other like superficial appearance features, it must be resubmitted for commission approval of such modifications and shall be treated in all respects under this rule as if it were a new and different device.

The traditional single spindle device, and the clear glass or plastic traditional fishbowl device, for the dispensing of pull tabs are hereby approved and these devices need not be submitted to the commission for further approval notwithstanding the above provisions of this rule. [Order 55, § 230-30-095, filed 6/25/76; Order 45, § 230-30-095, filed 12/30/75.]

WAC 230-30-100 Punchboard and pull tab device to display name of its licensed manufacturer. (1) No operator shall put out for play, and no distributor or manufacturer shall sell or otherwise furnish, any

punchboard, series of pull tabs or device for the dispensing of pull tabs unless each such board, series, or device shall have conspicuously set forth thereon a stamp, seal or label which identifies its manufacturer and the city and state of its manufacturer.

(2) Any coin-operated pull tab dispensing device manufactured or sold in this state, or for use in this state, and initially placed out for play on or after August 1, 1976, shall have the manufacturer's name, the city and state of its manufacturer, and the manufacturer's serial number for that device stamped or embossed into its case. The manufacturer shall keep a permanent record describing each such device sold, identifying the purchaser and setting out that serial number.

The manufacturer's serial number shall be set out on the sales invoice each time the device is sold or transferred.

(3) Each individual pull tab shall have conspicuously set forth thereon the name of the manufacturer or label or trademark which identifies its manufacturer. The label or trademark must be filed with the commission prior to the printing of the pull tab.

(4) No operator shall put out for play and no distributor shall sell or otherwise furnish, any punchboard, series of pull tabs or coin operated device for the dispensing of pull tabs, unless the manufacturer of punchboards, series of pull tabs or coin operated device for the dispensing of pull tabs, identified on such device, has been licensed by the commission. [Statutory Authority: RCW 9.46.070(13), 79-07-019 (Order 90), § 230-30-100, filed 6/14/79; Order 55, § 230-30-100, filed 6/25/76; Order 43, § 230-30-100, filed 11/28/75; Order 27, § 230-30-100, filed 11/15/74; Order 23, § 230-30-100, filed 9/23/74; Order 18, § 230-30-100, filed 5/21/74; Order 12, § 230-30-100, filed 2/14/74.]

✓ **WAC 230-30-102 Pull tab series assembly and packaging.** (1) Manufacturers of pull tabs shall manufacture, assemble, and package each pull tab series in such a manner that none of the winning pull tabs, nor the location or approximate location of any of the winning pull tabs can be determined, in advance of opening the pull tabs in any manner or by any device, including but not limited to any pattern in manufacture, assembly, packaging, markings, or by the use of a light.

(2) Winning pull tabs shall be evenly distributed and mixed among all other pull tabs in the series. The series shall be assembled and packaged with special care so as to eliminate any pattern as between series, or portions of series, from which the location or approximate location of any of the winning tabs may be determined.

(3) When the series is packaged in more than one package, box or other container, the entire series of individual pull tabs shall be mixed in such a manner that no person can determine the position or approximate location of any of the winning pull tabs or determine whether any one package or portion of a series contains a larger or smaller percentage of winning pull tabs than the balance of the series. The packages, boxes or other containers shall not be numbered as to distinguish one from the other. Each series of pull tabs shall contain a

packing slip placed inside the package containing the name of manufacturer, series number, date the series was packaged, and the name or identification of the person who packaged the series: *Provided*, That this information may be printed on the back of the flare or the outside of at least one of the packages, boxes or containers in which the pull tabs are packed. [Statutory Authority: RCW 9.46.070 (8), (11) and (14), 85-03-024 (Order 142), § 230-30-102, filed 1/9/85; Order 78, § 230-30-102, filed 11/17/77; Order 43, § 230-30-102, filed 11/28/75.]

✓ **WAC 230-30-103 Standards for construction of pull tabs.** (1) Pull tabs shall be constructed so that it is impossible to determine the covered or concealed number, symbol, set of symbols, or game protection on the pull tab until it has been dispensed to and opened by the player, by any method or device, including but not limited to, the use of a marking, variance in size, variance in paper fiber, or light.

(2) All pull tabs, except banded and latex covered pull tabs, will be constructed using a two or three ply paper stock construction.

(3) The manufacturer shall conspicuously print on the face or cover sheet the series number and the name of the manufacturer or label or trademark identifying the manufacturer. On banded pull tabs, the series number and the name of the manufacturer or label or trademark identifying the manufacturer shall be printed so both are readily visible prior to opening the pull tab.

(4) The cover sheet shall be color coded when individual series numbers are repeated and may show the consumer how to open the pull tab to determine the symbols or numbers. The cover sheet will contain perforated and/or clean-cut openings centered over the symbols or numbers on the back of the face sheet in such a manner as to allow easy opening by the consumer after purchase of the pull tabs, while at the same time, not permitting pull tabs to be opened prematurely in normal handling. Perforation should exist on both horizontal lines of the opening with either perforated or clean-cut on the vertical or elliptical line where the tab must be grasped for opening after bending the edge of ticket down. On latex covered pull tabs, either the face or back of the pull tab shall be color coded when individual series numbers are repeated and may show the consumer how to remove the latex to determine the symbols or numbers. On banded pull tabs, the paper stock shall be color coded when individual series numbers are repeated.

(5) Pull tabs will be glued or sealed so that it is impossible to determine the covered or concealed numbers, symbol or set of symbols on the pull tab until it has been dispensed to and opened by the player.

(6) Thickness.

(a) Vendable pull tabs. Defined as pull tabs that are sold out of mechanical pull tab dispensing devices approved for such use in this state by the Washington state gambling commission.

(i) Single opening and double sided tabs. The overall bulk thickness of the pull tab shall be .045 inches plus or minus .003 inches.

(ii) Multiple opening tabs. The overall bulk thickness of the pull tab shall be .026 inches plus or minus .002 inches.

(b) Nonvendable pull tabs. Defined as pull tabs that cannot be sold out of mechanical pull tab dispensing devices approved for use in this state by the Washington state gambling commission. Nonvendable pull tabs may be dispensed from fishbowls, receptacles, packing boxes or spindles. Manufacturers may use any thickness, provided they comply with all other rules of the commission.

(c) All pull tabs within a single pull tab series shall be of the same thickness.

(7) Length and width.

(a) Vendable pull tabs

(i) Single opening and double sided tabs shall be $1 \frac{7}{8}$ inches \times 1 inch plus or minus $\frac{1}{8}$ inch.

(ii) Multiple opening tabs shall be $3 \frac{1}{2}$ inches by $1 \frac{7}{8}$ inches plus or minus $\frac{1}{8}$ inch.

(b) Nonvendable pull tabs - manufacturers may construct nonvendable pull tabs in any size provided the pull tab complies with all other rules of the commission.

(c) All pull tabs within a single pull tab series shall be uniform in length or width and not vary by more than $\frac{3}{64}$ inch, provided that in no case shall winning pull tabs be identifiable by visible variation in dimension.

(8) All pull tabs will be constructed to insure that, when offered for sale to the public, the pull tab is virtually opaque and free of security defects wherein winning pull tabs cannot be determined prior to being opened through the use of high intensity lights or any other method.

(9) Each manufacturer shall establish his own game protection for each pull tab game or series of games. The game protection shall be a method of identifying winning pull tabs, after they have been purchased and opened, from nonwinning, altered or forged pull tabs. The manufacturer may use special numbers, colors, designs, ink or any combination to establish the game protection. Manufacturers will submit to the gambling commission a letter explaining the game protection and will keep the commission informed on any changes. Spindle-type pull tab series when played in the manner set out in WAC 230-30-070(8) are exempt from this requirement. [Statutory Authority: Chapter 9.46 RCW. 87-15-052 (Order 169), § 230-30-103, filed 7/14/87. Statutory Authority: RCW 9.46.070 (1), (2), and (11) and 9.46.110. 85-21-046 (Order 154), § 230-30-103, filed 10/14/85. Statutory Authority: RCW 9.46.070 (5), (7), (8), (9), (11), (14) and (19). 84-13-038 (Order 140), § 230-30-103, filed 6/15/84; Order 78, § 230-30-103, filed 11/17/77; Order 43, § 230-30-103, filed 11/28/75.]

✓ WAC 230-30-104 Possession or sale of pull tab series in which winners or location of winners may be determined in advance--Prohibited. (1) No operator, distributor or manufacturer, or representative thereof, with knowledge or in circumstances whereunder he reasonably should have known, shall possess, display, put

out for play, sell or otherwise furnish to any person any pull tab series or pull tab from any series:

(a) In which the winning tabs have not been evenly distributed and mixed among all other tabs in the series; or

(b) In which the location, or approximate location, of any of the winning tabs can be determined in advance of opening the tabs in any manner or by any device, including but not limited to, any pattern in the manufacture, assembly or packaging of the tabs by the manufacturer, by any markings on the tabs or container, or by the use of a light; or

(c) Which does not conform in any other respect to the requirements of these rules as to manufacture, assembly, or packaging of pull tabs.

(2) No manufacturer or distributor or representative thereof shall use as a sales promotion any statement, demonstration, or implication that any certain portion of a series of pull tabs contains more winners than other portions of the series or that any series of pull tabs may be sold by the operator in a particular manner that would give the operator any advantage in selling more of the pull tabs before having to pay out winners. [Statutory Authority: RCW 9.46.070 (8), (11) and (14). 85-03-024 (Order 142), § 230-30-104, filed 1/9/85; Order 78, § 230-30-104, filed 11/17/77.]

WAC 230-30-105 Only one flare may be used with a punchboard or pull tab series. No person shall place or have out in public view more than one flare advertising the prizes available from the operation of any punchboard, or from any series of pull tabs. [Order 43, § 230-30-105, filed 11/28/75.]

✓ WAC 230-30-106 Standards for flares, made by manufacturers; distributors; operators. (1) Except as set forth in paragraph (2) below, the flare advertising prizes available from the operation of any punchboard, or any series of pull tabs shall be made by the manufacturer only, winning numbers or symbols shall not be altered by any operator or distributor, and shall:

(a) Be placed only upon the upper face, or on the top, of any such punchboard or any device used to dispense the pull tabs; and

(b) Clearly set out each of the prizes available and the number or symbol which wins prizes; and

(c) Set out the winning numbers or symbols for prizes of five dollars or more in cash, or merchandise worth five dollars or more at retail, in such a manner that each may be easily and clearly deleted or marked off as each prize is won and awarded. For the purposes of this subsection the retail value of a merchandise prize shall be the amount actually paid therefore by the licensed operator plus 50 percent of that actual cost.

(2) Distributors and operators that make merchandise packages and merchandise-cash combination packages may make and use substitute flares in accordance with WAC 230-30-015 as long as the following conditions are satisfied:

(a) The substitute flare complies with the requirements of 1(a), (b), and (c) of this section;

(b) The winning numbers or symbols on the substitute flare are selected from the winning numbers or symbols on the flare made by the manufacturer, or from the optional numbers placed on the back of the board by the manufacturer; and

(c) The substitute flare is stapled to the manufacturer's flare.

(3) Spindle-type pull tab series when played in the manner set out in WAC 230-30-070(8) are exempt from this section. [Statutory Authority: RCW 9.46.070 (11) and (14). 87-24-016 (Order 173), § 230-30-106, filed 11/23/87. Statutory Authority: RCW 9.46.070(10). 79-09-029 (Order 91), § 230-30-106, filed 8/14/79; Order 43, § 230-30-106, filed 11/28/75.]

WAC 230-30-110 Possession of duplicate numbered-color coded pull tab series prohibited. (A) Each manufacturer of pull tabs shall assign a series number to each series of pull tabs he manufactures and place that series number on each pull tab in that series. A manufacturer may, in addition, assign a color trim to that series and if so, each pull tab in the series shall also reflect that color trim.

No manufacturer, manufacturer's representative, distributor or distributor's representative shall sell or furnish to any operator a series of pull tabs with the same series number and color code combination as a series which that operator has previously purchased or obtained but upon which play has not been completed.

(B) No person licensed as an operator of punchboards or pull tabs shall ever obtain or possess, or shall ever allow upon the licensed premises, a series of pull tabs, or portion thereof, with the same series number, or series number or color code combination, as any other series of pull tabs or portion thereof in his possession, or on the licensed premises: *Provided*, That this rule shall not prevent a person from retaining upon the licensed premises pull tabs remaining from series removed from play for the purposes of complying with federal or state law or regulation if that person

(1) Has punched a hole through each such pull tab removed and retained with a standard hole punch not less than 1/8" in diameter immediately upon removal of the pull tabs from play, and

(2) Made a written record of the series number, color code if any, and the number of tabs remaining in that series, immediately upon removing that series from play, and

(3) The written record so made is maintained upon the licensed premises for a period of not less than three years after the series is removed. [Order 27, § 230-30-110, filed 11/15/74.]

WAC 230-30-130 Flare to display pull tab series number. Each flare describing the prizes and winning numbers or symbols for a series of pull tabs in play shall clearly set out the series number assigned to that pull tab series by the manufacturer. The series number will be placed upon the flare by the manufacturer prior to the series being sold to a distributor or operator. [Order

48, § 230-30-130, filed 3/23/76; Order 23, § 230-30-130, filed 9/23/74.]

WAC 230-30-200 Punchboard and pull tab business restrictions. (1) No operator shall buy, receive or otherwise obtain, nor shall any manufacturer or distributor, or anyone connected therewith, sell or deliver any punchboard, pull tab, pull tab dispensing device or related equipment, or merchandise for prizes to be awarded in connection with such activities, to any operator, except a cash [the] basis nor shall any operator permit any manufacturer or distributor or anyone connected therewith, to acquire any interest, including a security interest, in any such equipment or merchandise. A cash basis shall consist of payment in full, either by cash or by check, with payment made to the seller by the operator upon, or prior to, actual physical delivery of the merchandise to the operator: *Provided*, That when a check is used for payment to constitute a cash basis payment it shall be presented for payment into the banking system by the end of the tenth calendar day following the day the check is written. If an operator can demonstrate by a preponderance of evidence that it has properly made a payment by check, as required by this section, then it will not be held liable for a violation of this rule if the violation is caused solely by the failure of the manufacturer or distributor to deposit the check into the banking system in a timely fashion.

(2) No operator shall accept a loan of money or any thing of value from any manufacturer or distributor, or from anyone connected therewith. [Statutory Authority: RCW 9.46.070(13). 81-13-033 (Order 110), § 230-30-200, filed 6/15/81; Order 18, § 230-30-200, filed 5/21/74; Order 5, § 230-30-200, filed 12/19/73.]

Reviser's note: Permanent Order 30, filed by the Washington state gambling commission in the office of the code reviser on January 23, 1975, set an effective date of April 1, 1975, on the following section included in this chapter:

WAC 230-30-200 as a repealed section.

Emergency Order 34, filed April 1, 1975, deferred the effective date of Permanent Order 30, from April 1, 1975, to June 27, 1975.

Permanent Order 36, filed May 9, 1975, voided Orders 30 and 34 before the designated effective date of June 27, 1975, thereby returning the section to its former status as filed May 21, 1974. See later promulgation of this section by Order 110, filed June 15, 1981.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 230-30-210 Buying from and selling to only licensees required. No manufacturer, distributor or distributor's representative, shall sell or otherwise make available to any person any punchboards, pull tabs, pull tab dispensing devices or related equipment in this state unless it has first determined that such person has a valid license issued by the commission to sell or otherwise distribute such equipment within this state, or to operate such activity on a particular premise within this state.

No operator, distributor or distributor's representative, shall purchase or otherwise obtain from any person any punchboard, pull tab, device for the dispensing of

pull tabs or related equipment in this state until it has first determined that the person selling or otherwise offering such equipment has a valid license issued by the commission to sell the equipment in this state or has been registered with the commission as required. [Order 5, § 230-30-210, filed 12/19/73.]

WAC 230-30-212 Punchboards, pull tabs and related equipment may be sold with sale of business. Notwithstanding any other provision in these rules, a licensed operator who is selling the retail business in connection with which he is operating punchboards, pull tabs and pull tab dispensing devices may transfer such of those items as he has on hand to the buyer as a part of the transaction, provided:

(1) The buyer has been licensed by the commission to operate punchboards and pull tabs or has applied to the commission for such a license.

(2) Each such item sold together with the business is reported to the commission in writing by the seller. This report shall include a complete description of each item sold together with the number of the commission's stamp assigned to each item, and the number assigned by the manufacturer to each board, series of pull tabs or device. [Order 23, § 230-30-212, filed 9/23/74.]

WAC 230-30-213 Sale of punchboards, pull tabs and pull tab dispensing devices when license revoked, expired or voluntarily surrendered. (1) Notwithstanding any other provisions in these rules, a licensed operator or distributor of punchboards and pull tabs whose license has been revoked, expired or voluntarily surrendered may sell complete pull tab series, pull tab dispensing devices and unused punchboards in inventory to a licensed distributor or a licensed manufacturer of those devices: *Provided*, That the seller notifies the commission within ten days of the transaction in writing of the following

(a) The date the license is revoked, expired or surrendered,

(b) A complete description of the items to be sold including commission identification stamp number,

(c) The name and license number of the distributor or manufacturer who will buy the equipment.

(2) Licensed distributors and manufacturers of punchboards and pull tabs may buy complete pull tab series, pull tab dispensing devices and unused punchboards from a licensed operator whose license has been revoked, expired or surrendered: *Provided*, That:

(a) The transaction is for cash only,

(b) The licensed operator has furnished the written notification to the commission of the transaction required above.

(3) The distributor or manufacturer will prepare an invoice for the transaction with a complete description of all equipment purchased together with the commission stamp number on each item. A copy of the notice given to the commission by the operator will be attached to the invoice. The records of these transactions shall be

retained by each party for not less than three years following the transaction, unless released by the commission from this requirement as to any particular record. [Order 33, § 230-30-213, filed 2/21/75.]

WAC 230-30-215 Trade-in of used pull tab dispensing devices permitted provided ce, in records are maintained. "Trade-in" of pull tab dispensing devices by an operator is prohibited, except when all of the following conditions are satisfied:

(1) The trade-in is accomplished in connection with, and as a part of, an occasional transaction wherein a licensed operator is purchasing other pull tab dispensing devices from a licensed distributor or manufacturer.

(2) The portion of the purchase price of the devices purchased by the operator to be deducted as a credit for the devices traded in is the fair market price of such trade-in items, taking into account their age, condition and functional obsolescence. The trade-in credit shall be for value received and shall not be used by the distributor or manufacturer to grant a discount in the price of the devices sold to the operator when such discount is not available to all other customers of the distributor or manufacturer.

(3) A record shall be kept of each transaction by all parties to it which includes:

(a) A complete description of each device sold to the operator, its sales price and the identifying number of the device set out on the stamp affixed thereto by the commission.

(b) A complete description of each device traded in to the distributor or manufacturer, the amount of money deducted from the sales price of the items purchased by the operator as a result of the device being traded in, and the identifying number of the device set out on the stamp affixed thereto issued by the commission. These records shall be in addition to those elsewhere required. The records of these transactions shall be retained by each party for not less than three years following the transaction. [Order 15, § 230-30-215, filed 4/17/74.]

WAC 230-30-220 Interest in separate business involving punchboards and pull tabs at a different marketing level prohibited. No manufacturer, distributor or operator of punchboards, pull tabs, pull tab dispensing devices or related equipment shall:

(1) Have any interest, directly or indirectly, in any other of these businesses operating in whole or in part at a different marketing level;

(2) Allow any of its officers, or any other person with a substantial interest in such business, to have any interest in any other of these businesses operating in whole or in part at a different marketing level;

(3) Shall employ any person in any capacity or allow any person to represent the business in any way if such person is also employed by, or represents any other of these businesses operating in whole or in part at a different marketing level;

(4) Shall allow any other of these businesses operating in whole or in part at a different marketing level, or any

person with a substantial interest therein to have any interest directly or indirectly, in it;

(5) Have any interest, directly or indirectly, in any business of any kind in which any other of these businesses operating in whole or in part at a different marketing level, or any person having a substantial interest therein, also has a substantial interest;

(6) Allow any other business of any kind in which any other of these businesses, or any person having a substantial interest therein, to have any interest, directly or indirectly, in it;

(7) For the purposes of this rule, the different marketing levels shall be:

- (a) Operator;
- (b) Distributor;
- (c) Manufacturer;

(8) This rule shall not prohibit the same person licensed and operating as a manufacturer from being also licensed and operating as a distributor. [Order 18, § 230-30-220, filed 5/21/74; Order 5, § 230-30-220, filed 12/19/73.]

WAC 230-30-300 Recall of defective punchboards, pull tabs or pull tab dispensing devices. (1) Upon a determination that punchboards, pull tabs or pull tab dispensing devices for sale in Washington do not meet commission standards, the director may order all defective products and all similarly constructed or printed products be recalled by the manufacturer(s).

(2) If the director orders such a recall, the manufacturer of the product shall be immediately notified regarding the items to be recalled, reason for the recall, effective date of the recall, and any other specific requirements. The verbal notification shall be followed with a written notification. Immediately upon the oral notification, manufacturers shall cease sale in the state and initiate actions to ensure complete compliance with the recall. Manufacturers will notify all distributors within 72 hours of the items recalled, effective date of recall, and arrange for the prompt return of the defective items. Distributors, when notified in writing by either manufacturer or commission of the recall, shall immediately stop sales and/or delivery of the product.

(3) The commission shall notify, in writing, each licensed distributor of gambling paraphernalia of the recall, effective dates thereof, the products involved, and of any special instructions if applicable. Within 72 hours, the distributor shall notify the Commission of the name and addresses of operators who have purchased the recalled item(s) during the last 30 days.

(4) When the distributors have provided the names of the operators, the commission shall then notify, in writing, each affected licensed operator as to the items recalled, effective date and special instructions, if applicable. Operators shall not utilize any defective punchboards, pull tabs or pull tab dispensing devices after receiving written notification from the commission.

(5) Prior to any reintroduction in the state of any recalled or similar item, the manufacturer must first submit the revised or reworked item to the commission for review, evaluation and approval. The manufacturer will

be notified in writing, of the approval or disapproval and a copy of the approving letter will be sent by the manufacturer to the distributor with the next five shipments of the reworked item. [Statutory Authority: RCW 9.46-.070 (8), (11) and (14). 88-07-059 (Order 175), § 230-30-300, filed 3/15/88.]

WAC 230-30-500 Rules applicable to operators of punchboards and pull tabs applicable as well to operators of either activity. Each rule of the commission which applies to operators of both punchboards and pull tabs shall apply as well to operators of either one of these activities. [Order 25, § 230-30-500, filed 10/23/74.]

"Operator" means
licensed organization;
whether as the entity
or commercial stimulant.


ORDER ADOPTING, AMENDING, AND REPEALING REGULATIONS OF THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

The attached 14 pages of regulations dealing with gaming on the air waves, operator licensing and security, limitations on pull-tab sales, expenses, revocation of a permit or license, prohibited financial interest, contests of skill, definitions, and deletion of old Department of Revenue regulations are hereby certified to be correct copies of the regulations which the Department of Commerce and Economic Development amends, repeals, and adopts under authority of AS 05.15.060, AS 05.15.130, AS 05.15.160, and Chapter 33, SLA 1990, and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and AS 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

This order takes effect on the 30th day after it has been filed by the Lieutenant Governor as provided in AS 44.62.180.

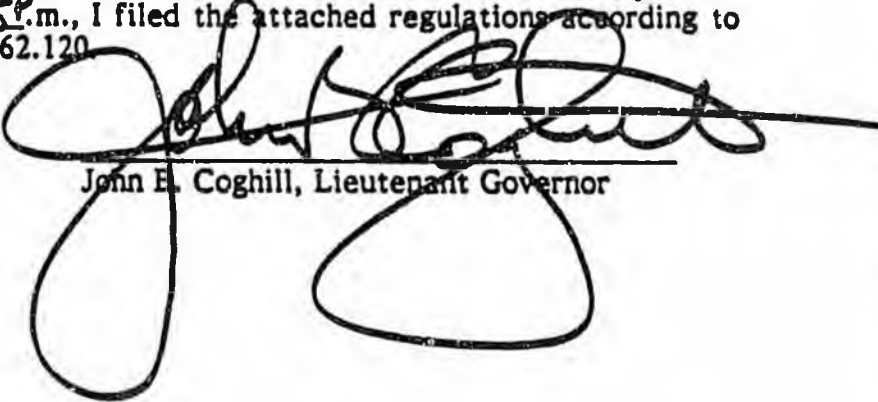
DATE: December 31, 1991
Juneau, Alaska



Glenn A. Olds, Commissioner
Department of Commerce and
Economic Development

FILING CERTIFICATION

I, John B. Coghill, Lieutenant Governor for the State of Alaska, certify that on JAN 6, 1991, at 2:35 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - AS 44.62.120.



John B. Coghill, Lieutenant Governor

Effective: Feb. 5, 1992)

Register: 121, April 1992)

JNH/kp/val5048V

(Words underlined indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted. New sections do not use underlining or bracketing.)

(Publisher: Please renumber the existing articles to read:

Article 1, Operators, to ARTICLE 2, OPERATORS;
Article 2, Pull-tab Manufacturing and Distribution, to
ARTICLE 3, PULL-TAB MANUFACTURING AND DISTRIBUTION;
Article 3, Pull-tab Games, to ARTICLE 4, PULL-TAB GAMES;
Article 4, Bingo Games, to ARTICLE 5, BINGO GAMES; and
Article 5, General Provisions, to ARTICLE 9, GENERAL
PROVISIONS)

12 AAC 34 is amended by adding a new article to read:

ARTICLE 1.
PERMITS AND PERMITTEES

12 AAC 34.100. CONDUCT OF GAMING ON THE AIRWAVES. In accordance with ch. 33, SLA 1990, a game of chance and skill authorized under AS 05.15.100(a) may be conducted on the airwaves by a noncommercial broadcasting station or network of stations, only if the station or network

(1) conducts the game under a permit issued to the station or network under AS 05.15.100(a); and

(2) has not contracted with an operator for the conduct of the game being played on the airwaves. (Eff. 2/5/92, Register 121)

Authority: Sec. 2, ch. 33, SLA 1990
AS 05.15.060
AS 05.15.130

12 AAC 34 is amended by adding a new section to read:

12 AAC 34.210. OPERATOR APPLICATION REQUIREMENTS. (a) An applicant for an operator license shall submit

(1) an original application on a form provided by the department;

(2) a nonrefundable license fee required by AS 05.15.122;

(3) a bond or security satisfactory to the department as required by AS 05.15.122(b)(5); and

(4) proof of liability insurance that is issued in the name of the operator for each location in which the operator is conducting gaming activity.

(b) The department will, in its discretion, accept lienable real property located in Alaska as security required for an operator license under AS 05.15.167.

(c) Except when the applicant is a municipality, two copies of the application must be submitted to the city or borough nearest the proposed gaming activity for consideration by the local government unit.

(d) Except as provided in (b) of this section, in AS 05.15.122(b)(5) and in this section, a "bond or security satisfactory to the department" means that the bond or security

(1) meets the requirements of AS 05.15.167;

(2) will be in effect for a term of two years after the date the operator license is issued; and

(3) if a certificate of deposit, is in the name of the State of Alaska in trust for the applicant and accompanied by a completed assignment of negotiable instrument form provided by the department.

(e) An applicant shall retain a copy of the application in its permanent records. (Eff. 2/5/92, Register 121)

Authority: AS 05.15.060
AS 05.15.122
AS 05.15.124
AS 05.15.165
AS 05.15.167

12 AAC 34 is amended by adding a new section to read:

12 AAC 34.375. PAYMENT FOR PULL-TABS. Within 30 days after the actual delivery of a pull-tab series or game to a permittee or operator, the permittee or operator shall pay to the distributor the full purchase price, by check made payable to the distributor. (Eff. 2/5/92, Register 121)

Authority: AS 05.15.060

12 AAC 34.400(b) is amended to read:

12 AAC 34.400. LIMITATIONS ON PULL-TAB SALES. (a) In accordance with AS 05.15.187, a pull-tab may be sold only if

(1) all pull-tabs in the series being played have the same series number;

(2) the entire pull-tab series is available for play at only one location;

(3) a pull-tab series contains the entire prize structure for that series.

(b) A pull-tab game may not be sold in this state if

(1) the prize structure for that game is spread across more than one pull-tab series within that game; or

(2) a single prize in that pull-tab game exceeds \$500. (Eff. 6/3/90, Register 114; am 2/5/92, Register 121)

Authority: AS 05.15.060
AS 05.15.130
AS 05.15.187
AS 05.15.210

12 AAC 34 is amended by adding a new section to Article 4 to read:

12 AAC 34.410. PULL-TAB PARTICIPATION. (a) A person may not participate as a player in a pull-tab series from which that person, or a direct relative of the person, sold a pull-tab.

(b) A person may not sell a pull-tab to a drunken person as defined in AS 04.21.080(b)(8). (Eff. 2/5/92, Register 121)

Authority: AS 05.15.060

12 AAC 34 is amended by adding a new section to Article 4 to read:

12 AAC 34.420. WITHDRAWAL OF PULL-TAB SERIES. (a) Except as provided in AS 05.15.187(d) and (b) of this section, a pull-tab series opened for play may not be withdrawn from play unless all pull-tabs in that series are sold.

(b) A pull-tab series opened for play may be withdrawn from play for the following reasons and under the following conditions:

(1) the permittee's prize award limitation, as identified in 12 AAC 34.900, has been reached for the calendar year; if the permittee is authorized to conduct pull-tab activities for the next calendar year, play of the withdrawn pull-tab series must be resumed when the new permit is received or at the beginning of the new calendar year, whichever is later;

(2) an operator temporarily discontinues the use of a permit to allow for the use of another permit; if the operator resumes use of the first permit, the withdrawn pull-tab series must be returned to play immediately;

(3) a permittee discontinues employment of an operator; immediately following the date on which the permittee discontinues employment with the operator the operator shall inventory the pull-tab series and return it, with the state identification stamps, to the authorizing permittee if the permittee or the permittee's new operator resumes pull-tab activities, the withdrawn pull-tab series must be returned to play immediately;

(4) pull-tabs are lost, stolen, or damaged as a result of a natural disaster, including fire or flood, as long as such circumstances are documented in writing and submitted to the department within 10 days after the incident;

(5) a permittee discontinues conducting all pull-tab activities; all pull-tabs open for play still in the possession of the permittee shall be withdrawn and returned to the department immediately for destruction;

(6) the permit under which the pull-tab series is being sold is suspended, revoked, not renewed by the permittee, or renewal is denied by the department; all pull-tabs open for play still in the possession of the permittee shall be withdrawn and returned to the department immediately for destruction unless otherwise directed by the department;

(7) the department has approved the withdrawal in response to a written request from the permittee; all pull-tabs must be handled according to the specific instructions of the department. (Eff. 2/5/92, Register 121)

Authority: AS 05.15.060
AS 05.15.180
AS 05.15.187

12 AAC 34 is amended by reserving a new article as follows:

ARTICLE 6.
RAFFLES, MONTE CARLO, AND OTHER GAMES
(RESERVED)

12 AAC 34 is amended by adding a new article to read:

ARTICLE 7.
ACCOUNTING AND RECORDKEEPING

12 AAC 34.700. MAXIMUM ALLOWABLE DEDUCTIONS FOR AUTHORIZED EXPENSES. (a) The total amount of authorized expenses that may be deducted for advertising under 15 AAC 105.220(b)(3) may not exceed five percent of the adjusted gross income for that gaming activity.

(b) The total amount of authorized expenses under AS 05.15.160 that may be paid or incurred by a permittee in connection with a pull-tab activity may not exceed 60 percent of the adjusted gross income from that pull-tab activity. (Eff. 2/5/92, Register 121)

Authority: AS 05.15.060

12 AAC 34 is amended by adding a new article to read:

ARTICLE 8.
SUSPENSION AND REVOCATION OF LICENSE OR PERMIT.

12 AAC 34.800. DENIAL, SUSPENSION, OR REVOCATION OF A PERMIT OR LICENSE. The department will, in its discretion, deny, suspend, or revoke a permit or license if the applicant, permittee, or licensee

- (1) makes a false statement or reports false information on an application for a permit or license or on a report required under AS 05.15, 15 AAC 105, or this chapter;
- (2) fails to provide the information, documentation, or fees required as a part of the application or reporting process;
- (3) fails to meet the necessary qualifications for a permit or license;
- (4) fails to pay a tax, fee, penalty, or interest payment due to the department or an authorizing permittee;
- (5) alters or allows to be altered a permit or license issued by the department;
- (6) allows the use of a permit or license by another person, except when a permittee contracts with a licensed operator;
- (7) violates, or allows an employee to violate, any provision of AS 05.15, 15 AAC 105, or this chapter;
- (8) fails to timely file a report or supplemental information required by AS 05.15, 15 AAC 105, or this chapter;
- (9) fails to make and retain sufficient books or records to substantiate a report required under AS 05.15, 15 AAC 105, or this chapter;
- (10) fails to provide any information or documentation requested by an authorizing permittee, the department, or the department's representative necessary to substantiate a report required under AS 05.15, 15 AAC 105, or this chapter;
- (11) fails to remit the pull-tab tax to the pull-tab distributor when the pull-tabs are distributed;
- (12) fails to pay the permittee the minimum return required by AS 05.15.128;
- (13) is found to have a prohibited financial interest in a gaming activity;
- (14) allows an employee or any other person to be responsible for the conduct of gaming activities who has
 - (A) within the preceding five years, been convicted of, in prison for, or on parole for a felony;
 - (B) been convicted of a crime involving theft or dishonesty or of a violation of any municipal, state, or federal gambling law; or
 - (C) a prohibited financial interest in the operation of the activity;
- (15) uses, or allows the use of, net proceeds derived from gaming activities for purposes other than that allowed under AS 05.15, 15 AAC 105, or this chapter;
- (16) deceives or defrauds any person;
- (17) fails to cooperate with the department's representatives by
 - (A) denying access to a site where gaming activities are being conducted; or

(B) failing to promptly produce for inspection or audit a book, record, or document required by statute or regulation; or

(18) uses someone other than a licensed operator, an employee as defined in 12 AAC 34.200(b), or a volunteer as provided for in 12 AAC 34.920, to conduct gaming activity on behalf of the permittee or operator. (Eff. 2/5/92, Register 121)

Authority: AS 05.15.030
AS 05.15.040
AS 05.15.050
AS 05.15.060
AS 05.15.122
AS 05.15.128
AS 05.15.140
AS 05.15.170

12 AAC 34.810. PROHIBITED FINANCIAL INTEREST. (a) A permittee or licensee may not have a prohibited financial interest in a gaming activity, as described in this section, and may not employ, contract with, or allow a person to participate in activities authorized by AS 05.15 who has a prohibited financial interest in a gaming activity.

(b) A permittee, licensee, or person participating in a gaming activity has a prohibited financial interest if that permittee, licensee, or person, or a direct relative of a permittee, licensee, or person

(1) participates in the operation of a gaming activity while also receiving compensation for the use of equipment or facilities used to conduct that gaming activity, unless licensed as an operator;

(2) conducts a gaming activity while at the same time selling bingo equipment, pull-tabs, tickets, or supplies in connection with that gaming activity at a price that is higher than the normal retail price offered to all other customers.

(c) In addition to the prohibited financial interests described in (b) of this section, an operator has a prohibited financial interest in a gaming activity if the operator

(1) is licensed in this state as a pull-tab distributor or pull-tab manufacturer;

(2) is an officer, director, or manager of a corporation, business, or organization that is licensed in this state as a pull-tab distributor or pull-tab manufacturer;

(3) owns or controls more than 10 percent of the assets or stock of a corporation, business, or organization that is licensed in this state as a pull-tab distributor or pull-tab manufacturer; or

(4) accepts a loan of money, or of anything of value, from a manufacturer, distributor, or anyone connected with a gaming activity.

(d) In addition to the prohibited financial interests described in (b) of this section, a permittee has a prohibited financial interest in a gaming activity if the permittee accepts a loan of money, or of anything else of value, from a manufacturer, distributor, or anyone connected with a gaming activity. (Eff. 2/5/92, Register 121)

Authority: AS 05.15.060
AS 05.15.140

12 AAC 34 is amended by adding a new section to read:

12 AAC 34.980. CONTESTS OF SKILL DEFINITIONS. In
AS 05.15.210(7)

(1) "marksmanship" includes contests of skill based on rifle, pistol, or archery matches, and other similar events approved by the department in which awards are given;

(2) "races" includes any test or race of physical endurance or skill performed by the individual contestants;

(3) "other athletic events" are physical events that include generally recognized track and field events based on personal physical ability or skill. (Eff. 2/5/92, Register 121)

Authority: AS 05.15.060
AS 05.15.100
AS 05.15.210

12 AAC 34.990 is amended by adding new sections to read:

(4) "direct relative" means a spouse, child, parent, or any person related, up to and including the third degree consanguinity to the person or the person's spouse;

(5) "licensee" means a person, municipality or entity that has a current license as an operator, pull-tab distributor, or pull-tab manufacturer from the department. (Eff. 6/3/90, Register 114; am 2/5/92, Register 121)

Authority: AS 05.15.060
AS 05.15.130
AS 05.15.210

(EDITOR'S NOTE: The Department of Law is requested to delete the following regulations:

- 15 AAC 105.160. CONTESTS OF SKILL. Deleted 2/5/92.
- 15 AAC 105.320. OPERATOR LICENSE AND BOND. Deleted 2/5/92.
- 15 AAC 105.325. MINIMUM RETURN TO PERMITTEE. Deleted 2/5/92.
- 15 AAC 105.335. PULL-TAB TAX. Deleted 2/5/92.
- 15 AAC 105.190(a) is deleted

(a) Deleted 2/5/92.
(Eff. 9/7/60, Register 2; am 11/6/76, Register 60; am
9/17/86, Register 99; am 10/1/88, Register 107; am 1/21/89,
Register 109

Authority: AS 05.15.060
AS 05.15.083
AS 05.15.087
AS 05.15.122
AS 05.15.140
AS 05.15.170

EDITOR'S NOTE: Under the authority of AS 44.62.125(b)(6) and
AS 01.05.031(b)(11) as of Register 121 (April 1992), the
regulations attorney deleted the regulations in 15 AAC 105 cited
above, which were superseded by provisions in 12 AAC 34.

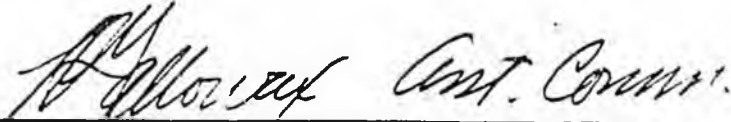
ORDER ADOPTING AND AMENDING REGULATIONS OF THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
GAMES OF CHANCE AND SKILL

The attached three pages of regulations allowing a permittee to use a volunteer to sell pull-tabs at a location other than the permittee's customary place of business are hereby certified to be correct copies of the former emergency regulations which the Department of Commerce and Economic Development now amends under the authority of AS 05.15.060 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and AS 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

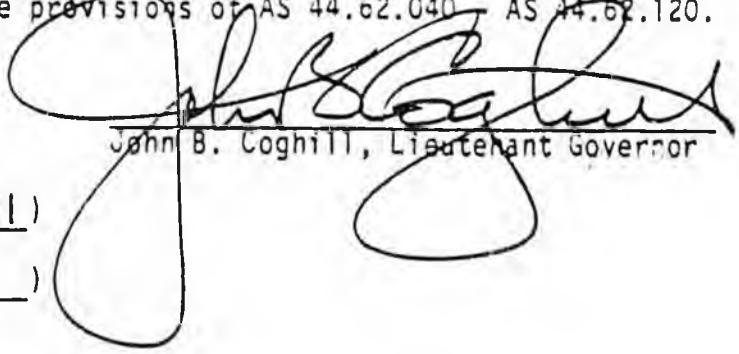
This order takes effect on the 30th day after it has been filed by the Lieutenant Governor as provided in AS 44.62.180.

DATE: 5-13-91
Juneau, Alaska


Glenn A. Olds, Commissioner
Department of Commerce and
Economic Development

FILING CERTIFICATION

I, John B. Coghill, Lieutenant Governor for the State of Alaska, certify that on May 15, 1991, at 9:55 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 AS 44.62.120.


John B. Coghill, Lieutenant Governor

Effective: June 14, 1991)

Register: 118, July)

KH/wfd4495W
51391b

12 AAC 34.400 is amended to read:

12 AAC 34.400. LIMITATION ON PULL-TAB SALES. (a) In accordance with AS 05.15.187, a pull-tab may be sold only if

- (1) all pull-tabs in the series being played have the same series number;

- (2) the entire pull-tab series is available for play at only one location;

- (3) a pull-tab series contains the entire prize structure for that series.

(b) A pull-tab game may not be sold in this state if the prize structure for that game is spread across more than one pull-tab series within that game.

(c) In addition to the requirements of AS 05.15.187(e), a person under the age of 19 may not sell pull-tabs.
(Eff. 6/3/90, Register 114; am 6/14/91, Register 118)

Authority: AS 05.15.060
AS 05.15.130
AS 05.15.187
AS 05.15.210

12 AAC 34 is amended by adding a new section to read:

12 AAC 34.910. LEASING OF LOCATION TO CONDUCT GAMING ACTIVITIES. (a) A permittee or an operator may lease space at a place other than its customary place of business in order to conduct gaming activities. The lease must be in writing. The rent paid by a permittee or an operator for the space actually used to conduct the gaming activities may not exceed the average cost per square foot of comparable space. The permittee or the operator may pay no other compensation to the lessor for the use of that location.

(b) The department will, in its discretion, issue a separate permit for each location at which gaming activities are to be conducted under (a) of this section. A permit must be posted at a location before gaming activities are conducted by a permittee or an operator. The application for a permit under this section must include a copy of the lease and a list of the operator's employees or the permittee's members or employees who will conduct the gaming activities for the permittee or the operator.

(c) When pull-tabs are sold under (a) of this section at a location at which bingo games are also conducted, the pull-tabs may be sold only during the time bingo games are conducted and only in accordance with the other provisions of this section.

(d) All pull-tab sales conducted under (a) of this section must be conducted in an identifiably distinct area of the location.

(e) All gaming receipts from sales conducted under (a) of this section must be kept separate at all times from other business receipts at the location.

(f) Only an employee or member of a permittee may conduct gaming activities under (a) of this section for a permittee. Only the employee of an operator may conduct gaming activities under (a) of this section for an operator. An employee of the lessor of a location under (a) of this section may not conduct gaming activities for a permittee or an operator. In addition, the employee or member of a permittee or the employee of an operator

(1) must be present at all times when gaming activities are being conducted;

(2) is the only person at the location who may conduct gaming activities; and

(3) may only be paid a wage that does not exceed \$10 per hour.

(g) An operator conducting gaming activities under (a) of this section who is the owner of the location at which the gaming activities are conducted must also comply with the provisions of this section.

(h) In (f) of this section, the term "employee" has the meaning in 12 AAC 34.200(b). (Eff. 1/15/91, Register 117; am 6/14/91, Register 118)

Authority: AS 05.15.020
AS 05.15.040
AS 05.15.060

12 AAC 34 is amended by adding a new section to read:

12 AAC 34.920. USE OF VOLUNTEER SERVICES AND SPACE. Notwithstanding 12 AAC 34.200(a), a municipality or qualified organization may apply for a permit to conduct charitable gaming activities at a location other than the applicant's customary place of business using a volunteer, if no compensation is to be paid to the volunteer for conducting the gaming activity. If a retail location is used to conduct gaming activities under this section, the owner of the retail location must donate the space to the permittee and may not receive compensation in any form. (Eff. 6/14/91, Register 118)

Authority: AS 05.15.020
AS 05.15.040
AS 05.15.060

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

PO BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465 2500

December 31, 1991

In response to numerous inquiries recently received by the Department of Commerce and Economic Development regarding the recently published charitable gaming regulations, the department has summarized the regulations and the effect on charitable gaming in Alaska with the following release.



Larry O. Galloway
Assistant Commissioner

LOG/JH/mst3569m
123191a

NEWS RELEASE

STATE OF ALASKA

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

GLENN A. OLDS
COMMISSIONER



For Information Contact:

Department of Commerce &
Economic Development
P.O. Box D
Juneau, Alaska 99811
(907) 465-2500

FOR IMMEDIATE RELEASE

December 31, 1991

COMMERCE AND ECONOMIC DEVELOPMENT ISSUES REVISED GAMBLING RULES, IMPROVES CHARITIES' CUT

Charities in Alaska could more than double their take from charitable gambling as a result of new state regulations governing gaming approved today by Department of Commerce and Economic Development Commissioner Glenn Olds.

Olds, with some changes, formalized new regulations on charitable gambling that he had proposed this summer. Under the new regulations operators of games of chance and charities that hold permits allowing the games will be limited in how much in expenses they can deduct from games, such as pull-tabs. That will free up more money to go for the purposes for which charitable gambling is supposed to be conducted, such as educational, civic, public or religious purposes.

"Our purpose is to insure that, in the absence of new legislation to control gambling, we do the best job we can under the existing law to protect charities and enhance the proceeds that they make off charitable gambling," said Olds.

(MORE)

According to preliminary audit numbers released today by John Hansen with the Department of Commerce and Economic Development, in 1990, Alaskans spent \$188.8 million on charitable gambling, a \$3 million increase over 1989's spending. Last year's spending represents an 11-fold increase in spending compared to the \$17.6 million spent in 1980.

Spending on legalized gambling skyrocketed after regulators in 1984 legalized pull-tab gambling, which in 1989 accounted for about three-quarters of the spending. Gambling was furthered in 1988 when lawmakers allowed "profit operators," like bars, to sell pull-tabs on behalf of operators who run the games on behalf of permitted charities.

Olds said the new regulations are designed to require operators and permittees to run the games more efficiently so that more net proceeds are available to go to the purposes designated by the charities.

"Right now, charities are required to receive only 2.25% of the gross receipts from operators. All I'm doing is requiring that operators hold down expenses so the charitable take will increase," said Olds.

In 1990, of the \$188.8 million taken in, only \$14.5 million (or 7.6%) went to charities after prizes, taxes, and expenses were subtracted. When charities ran their own games, the percentage rose to 9.5%, while operators turned over only \$3.1 million of the \$69.6 million they collected in the games, or 4.4% to the charities.

While not changing the law, Olds' new regulations limit operators of games from bingo to pull-tabs not to charge expenses greater than 60% of the adjusted gross after prize costs are subtracted.

Currently, operators can claim expenses of 85% of the adjusted gross. In 1990, expenses of \$28.6 million more than doubled the net proceeds to charities. This will mean the charities' percentage will increase two and one-half (or three) times.

(MORE)

The new regulations also:

- o Limit to \$500 the top single prize that can be won in pull-tab games, compared to recent \$5,000 and \$10,000 prizes. Olds said the limitation on prizes, which requires more small prizes to be offered in each pull-tab game, was imposed since it becomes too tempting for operators or employees to manipulate or rig games as the prize values increase.
- o Prohibit bartenders to sell pull-tabs to intoxicated customers, just like it is illegal under state law for bartenders to sell alcohol to obviously intoxicated customers.
- o Prohibits operators of games from also being the distributors of pull-tab games. The change is being done to prevent problems with collection of the state's 3% tax on pull-tabs and to prevent higher costs from being charged to permittees for pull-tabs they purchase from operators who also act as their own distributors of pull-tab games.

Olds said the changes should help prevent games of chance and charitable gambling from more greatly affecting the incomes of those least able to afford to play the games.

"Our goal is simply to regulate the industry as fairly as we can until lawmakers can consider more sweeping changes," said Olds. Legislation to change regulations on charitable gambling was under consideration in both the Alaska House and Senate this past session but did not win final approval.

The regulations, the subject of a series of public hearings this winter, still need to be reviewed by the Attorney General's Office and filed by the Lt. Governor's Office before they take effect.

#

COMPARABLE ANALYSIS
ALLOWABLE EXPENSES

<u>1990</u>	<u>HB 517</u> <u>SB 501</u>	60% Allowable Expenses 60% Allowable Expenses
<u>1991</u>	<u>SB 6</u>	70% As Introduced 60% L/C and Judiciary
	<u>HB 168</u>	80% Introduced in Bingo Halls 65% Introduced in Stores/Pull-Tabs 50% Vendor Outlets
	<u>SB 6</u>	65% In Bingo Halls 50% In Stores/Pull-Tabs As passed on both House and Senate floors.
<u>1992</u>	12 AAC 34.700	60% Pull-Tab Expenses

PULL-TAB ANALYSIS

GROSS RECEIPTS (\$1.00 x 1,000 Pull-Tabs)	\$1,000.00
PRIZES PAID OUT	<u>[850.00]</u>
ADJUSTED GROSS INCOME ^{1/}	150.00
ALLOWABLE EXPENSES 60% ^{2/} As Provided in Proposed Regulation 12 AAC 34.700)	<u>[90.00]</u>
NET PROCEEDS ^{3/} Available for Permittees' Use	<u>\$ 60.00</u>

-
- ^{1/} Adjusted Gross Income is defined as the gross income less the prizes awarded and any state, federal, and municipal income taxes paid or owed. AS 05.15.210(1)
- ^{2/} Expenses are defined as bona fide expenses reasonably necessary for goods, wares, merchandise, and personal services including operators' fees necessary to conduct gaming activity. AS 05.15.160(a) and 15 AAC 105.220(b)
- ^{3/} Net Proceeds are defined as gross receipts from an authorized activity less the fee described in AS 05.15.020(b), expenses authorized by AS 05.15.160 and the prizes awarded. AS 05.15.210(22)

Chance, Charity, Gambling with our Future

Einstein once said, "God does not throw dice." It was his reminder that we live in an ordered, dependable world, where reasonable connection between cause and effect hold, and where we build competence, character, and civilization on this confidence. Freedom, in any cosmic, as well as human sense, is to be understood as operating within this dependable design.

Parents, teachers, engineers, business leaders, and almost everyone understands this fundamental wisdom. We teach our children to learn this elemental lesson early, that fire burns; rules regulate our highways, crosswalks, and social behavior; that actions have consequences and limits; that we reap what we sow. Business and professional leaders know there are no free lunches. Someone pays.

Unhappily, what began as a fun way to relieve the burden of this wisdom about our world and ourselves in games of chance and skill, the throw of the dice, has become almost a way of life. Indeed, for many, and often those least able to pay, it has.

Alaska leads the world in the per capita investment in games of chance and charitable gambling which is now reported over \$188,924,959 annually. This explosive development involved only 162 permits and \$649,793 gross dollars in 1960, but by 1980 had reached \$17,641,692. The next decade through 1989, the last audited figure, had increased almost 900%.

In 1984, the state legalized pull-tab gambling, which now accounts for 75% of the take, and later in the "1988 Gaming Reform Act," which more properly should have been called the "Alaska Gaming Liberalization Act," opened the flood gates further by raising the prize limitations from 200,000.00 per year to 1,000,000.00 and by providing for "profit operators" to conduct gaming for permittees.

With all this development, charities have received precious little, with the law requiring only 2.25% of the gross to be remitted to charities by licensed operators and no limitations on the amount of expenses for which organizations could use these proceeds. At the same time, many charities have come to rely more heavily on gambling for their support. Ironically, this reliance has fed the appetite and justification to hope to get something for nothing, increased the professionalization and profiteering of gambling, and permitted massive profit making, expense manipulation, and even criminal invitation to our state.

There had been earnest hope that absence of law and its evasion or perversion would encourage the Legislature to address the unregulated issues, seek elimination of the criminal element, and faster ways to insure more of the take for charity. A year ago, the Legislature failed to pass such legislation and, in the closing hours of this session just completed, after enormous investment and time and leadership from the Legislature and Governor's Office and department staff, the bill failed to pass.

The Governor has sought consistently to encourage charities' return to voluntary support, indeed to enlist the role of the volunteer in appropriate games of skill and chance. Many proprietors have volunteered to help charities directly and fully to derive such revenue from exhibits or "games" on their premises.

Without legal controls and parameters sufficient to properly regulate this runaway appetite for gambling, and attendant profiteering, the recourse of the state is to have tough and tighter regulation within such law as we have, seeking to enlist and strengthen the role of the volunteer in charities' pursuit of revenue. The new regulations we will be issuing will triple the charities take, tightening controls on criminal elements and reporting, and hopefully rally concerned citizenry to press its representatives for a real bill next session.

Morality cannot be legislated in a free society, but it can be encouraged and fostered by leadership example, and public demand and initiative. It would be sad if the last frontier would be the last to address corrective measures in this rising tide in our state.

As I have told students over the years, "If you leap from the cliff, you do not defy the law of gravity, you illustrate it!"

Einstein's wisdom about dice and chance is not chancy, but highly dependable. Those who try to get something for nothing, usually get nothing for something. Fun is easily perverted, if the temptation to profit is inviting. Bingo for pleasure and charity, which we have all enjoyed, has become the threshold for big business.

The state may regulate, but it requires an aroused and enlightened public to educate. This administration invites help to turn this trend around. In our zeal to throw the dice, let's not throw out the values that have taught us to be wary of free lunches.

LG/rs2315s
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STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

WALTER J. HICKEL, GOVERNOR

P.O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2534

LETTER RULING #91-3

This letter ruling is being promulgated to address what constitutes contests of skills, sweepstakes and lotteries. It also defines promotional undertakings by anyone which would not fall within the purview of any contests of skills, sweepstakes and lotteries. This ruling should help prevent anyone from violating Alaska's Unfair Trade Practices and Consumer Protection Act, AS 45.50.471-45.50.561; the 1988 Alaska Gaming Reform Act, AS 05.15; and its implementing regulations 12 AAC 34 and 15 AAC 105.

There are three important elements for any contest to constitute a sweepstake or lottery. These elements are: chance, a prize and consideration. In Morrow v. State, 511 P. 2d 127 (Alaska 1973), the Court defined "chance" as a contest of chance as opposed to a contest of skill. Thus, a contest in which significant skill is required in order to win the contest would not be considered a lottery. The skill required to remove a contest from a lottery is more than just minimal skill and the element of skill and chance cannot be combined. For instance, in People v. Rehm, 13 Cal. App. 2d. Supp. 755, 759 (1936), it was held that contests for guessing how many beans are in a jar are contests of chance and skill.

The other element that would constitute a lottery is the offer of a prize. Chance when coupled with consideration without a prize will not be sufficient. A prize has been defined as a motivating factor or the inducement that accounts for the success of virtually all forms of gambling -- the opportunity to get something for nothing (J.C. Martin Corp. v. Federal Trade Commission, 242 F. 2d 530 (7th Cir. 1957)).

The last element is consideration which is the most difficult to define. In general, if there is a contest involving a prize and chance and as a requirement to enter the contest one has to give consideration, then the contest is a lottery. A contest with a prize and a chance cannot have an entry fee, purchase requirement or requirement of other consideration or else it becomes a lottery.

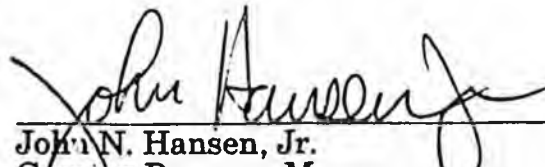
Thus, in many national promotional contests, you will see the standard language "no purchase necessary," and always a way offered to enter the contest free, generally not even requiring a contestant to pick up a specific order blank or form. Thus, in order to remove a contest from a classification as a lottery, the merchant or contest promoter must offer to all contestants a free way to enter.

Letter Ruling #91-3
Page 2

In Holmes v. Saunders, 114 Cal. App. 2d 389, 390-391 (1952), the Court held: The consideration to make a transaction a lottery need not be paid exclusively for the chance to win the prize. It is sufficient that the consideration be paid for something else and the chance to win a prize.

Let all concerned be guided accordingly by this letter ruling.

Juneau, Alaska this 22nd day of February, 1991.



John N. Hansen, Jr.
Gaming Program Manager

JNH/FQP/dg18975D
022291a

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

STEVE COWPER, GOVERNOR

P.O. BOX D-LIC
JUNEAU, ALASKA 99811-0800
PHONE: (907) 485-2534

September 27, 1989

Dear Permittee:

The Department of Commerce and Economic Development, Division of Occupational Licensing, is adopting some emergency regulations that will have considerable impact on the manner in which charitable gaming activities are conducted in this state. I am writing to apprise you directly of the intent of the new regulations, as well as to provide you with the department's rationale for these major changes to current gaming practices in this state.

Since transfer of the charitable gaming program to the Division of Occupational Licensing in July of this year, a number of issues of substantial concern became the focus of much of our attention. Those issues were: 1) pull-tab "vendors"; 2) bingo "operators"; 3) statewide pull-tab games posing as "lotteries"; 4) the number of allowable monthly bingo sessions; 5) the establishment of a state requirement that pull-tabs sold in Alaska carry a state identification stamp; and 6) the creation of an advisory group to assist the department in administration of the state's charitable gaming program.

Because of the seriousness of these matters, the department, after internal review and discussions, sought the governor's review and approval of our proposed approach to resolving these issues. Having received Governor Cowper's backing, we released today a statement to the press outlining the department's new direction in enforcement of Alaska's charitable gaming statutes and regulations.

Our plan is described below, in detail.

I. VENDORS

We plan to adopt an emergency regulation prohibiting third party "vendors" from conducting gaming activities on behalf of permittees or operators. The Gaming Reform Act of 1988 did not contemplate or authorize a pull-tab "vendor" class. Only a permittee itself, or an operator on behalf of a permittee, is allowed to conduct gaming activities under AS 05.15.

Permittees

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September 27, 1989

Ultimately, we believe the issue of vendors vs. operators is a matter most appropriately addressed before the Legislature. If the public wants to allow any entity in this state to sell pull-tabs, we believe the Legislature should write a law that specifically provides for such a result. Until that time, the department believes it must enforce the statute as written, including a prohibition on third-party vendors.

II. OPERATORS

We have a five-point plan to deal with the controversy surrounding operator licensing. Please know that it is our intent, through these actions, to encourage persons to go into business as operators and to encourage permittees to utilize operators.

- A. We are going to enforce the language of AS 06.15.122 ("Operator's License"). We are therefore promulgating an emergency regulation which will provide that any person conducting gaming activities on behalf of more than one (1) permittee is, by definition, an operator. This will effectively make everyone presently running a professional bingo hall an operator. It will also prohibit "vendors," as previously discussed.

Our primary goal in narrowly defining an operator/permittee relationship is to enforce the gaming law's reporting requirements on those persons currently conducting gaming (e.g., bingo or pull-tab) operations.

- B. Because enforcement of reporting is our primary goal, and because we are so near the end of the current calendar year, we will not require those persons presently conducting bingo operations, who as a result of this action must seek licensure, to meet the bonding requirement of the statute.

Rather, we will simply require that they apply for an operator license, meet the liability insurance requirements, pay the license fee, and meet all monthly, quarterly, and annual reporting requirements, retroactive to July 1, 1989. All persons currently conducting bingo on behalf of more than one permittee must be licensed as an operator by November 1, 1989. If not, the state will go to court and seek a restraining order against the operation.

- C. We will not require operators to provide bonding until July 1, 1990.

We are extending the date to mid-1990 in order to allow for legislative debate over the amount of the present bonding requirement and the present limitations on prize awards imposed on permittees who contract with an operator.

It is the department's position that the present bonding requirement for operators is excessive. In addition, the difficulty in obtaining bonding is a significant disincentive for a person to become licensed as an operator. We believe a better solution to the problem would either be to significantly reduce the bonding required or establish a system patterned after the Real Estate Surety Fund (a fund created by assessing a fee against all licensees) to guarantee restitution when proceeds due a permittee from an operator turn up missing. If no legislation is passed affecting the present bonding requirement, then we will require compliance with that requirement by July 1, 1990.

- D. As a matter of fairness, we wish to release all operator bonds currently held by the state, especially those posted by bingo operators. We have asked for an Attorney General's opinion on the legality and wisdom of returning all bonds. If the Attorney General concurs, the bonds will be returned.

Permittees

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September 27, 1989

3. The use of the word "lottery" in the name is terribly misleading and, from a consumer protection standpoint, probably should not be allowed.

The department has told Lottery Alaska that its gaming operations do not comport with Alaska's gaming laws and has prohibited the further introduction of such games. In fairness to those permittees under whose permits current gaming is being conducted, the department will allow Lottery Alaska to complete its sale of pull-tabs for the game(s).

The gaming statute did not authorize nor does it contemplate such large pull-tab games. If we continue to allow pull-tab operations of this size, charitable operations conducting small pull-tab games could be driven out of business, or their potential profits considerably reduced, particularly in the face of the proliferation of pull-tabs in many of the retail outlets in this state. Under the Lottery Alaska scheme, retailers get a discount on the pull-tabs purchased, plus a lot of free game-related advertising for their business, all of which encourages them to sell pull-tabs for Lottery Alaska instead of other charitable groups. In addition, the retailers are unlicensed "vendors," as previously discussed.

If the Legislature intended statewide pull-tab games, then the department believes it should amend the gaming statutes to clearly authorize them.

On a somewhat related topic, you may know that some towns, in reaction to the proliferation of pull-tab operations, have acted to prohibit operators in their community. While we appreciate the concern for local charities that motivated these municipal ordinances, we believe prohibition is too extreme a reaction, because it eliminates even the possibility that local operators could spring up to assist local charitable organizations who would prefer not to take on the headaches of having to conduct their gaming (and reporting) activities themselves. Because we are encouraging the use of operators where appropriate to meet the department's need for fiscal accountability, we hope those communities that have taken such actions will reconsider.

IV. PULL-TAB IDENTIFICATION STAMP

Effective January 1, 1990, the department is going to require manufacturers selling pull-tabs in Alaska to place an "identification stamp" on each series (i.e., game) played in Alaska. A number of states (including Washington) already require such a stamp. The state will print the stamps and sell them -- at a profit -- to the manufacturers, who will then place the stamp on each flare sheet accompanying each pull-tab game. The flare sheet for each game must be posted at the location where the pull-tab game is being sold.

With this additional requirement, it will be considerably more difficult to import illegal pull-tab games, and it certainly will increase the ability of gaming investigators or law enforcement officers to inspect pull-tab games, verify their legitimacy, and trace their place of origin. Manufacturers will file a report with the state listing each game sold to a distributor in Alaska. This report could then be compared with the reports required to be filed by distributors.

In addition, if feasible, we are going to seek to require pull-tab manufacturers, whether or not they manufacture pull-tabs in the state, to be licensed or at least registered with the state, to give us an additional enforcement tool.

Permittees

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September 27, 1989

As you know, the division has before it some sixty pages of regulations, most of which are noncontroversial but need substantial fine tuning. At the very least, the accounting and record keeping procedures proposed in the regulations need particular review.

We need to be sure that the rules are just as feasible for permittee-run operations that potentially lack the systems to adequately meet the rather complex and detailed reporting requirements contained in the proposed regulations as they are for operator conducted activities.

An advisory group with members representing the interests of 1) rural and urban permittees (including municipalities), 2) operators, and 3) distributors, would greatly assist the department in its review of the regulations. In addition, the group's assistance during the next legislative session could prove invaluable.

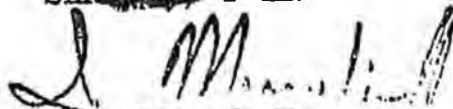
We believe a seven to nine member advisory group is workable and have already begun contacting interested persons about serving on this body. We plan to announce its formation and first meeting date by mid-November.

* * *

I hope this admittedly lengthy letter has been of assistance and use to you in understanding the recent actions of the department. I wish to emphasize that our abiding concerns are that the department have the tools it needs for adequate enforcement and accountability, and that the state's gaming activities not expand beyond their statutory boundaries.

We believe charitable gaming was clearly intended by the Legislature to be conducted on a local level. However, we strongly believe that it is the Alaska Legislature's role, as elected representative of its citizens, to make decisions regarding any expansion of Alaska's gaming activities. We at least ask for and seek your understanding of -- if not your agreement with -- our role in administering the state's gaming laws.

Sincerely,



Larry Mercurieff
Commissioner

LM/RPB/mm1668t
092589d

FINDING OF EMERGENCY

The Department of Commerce and Economic Development, finds that an emergency exists and that the attached regulations are necessary for the immediate preservation of the public peace and financial welfare. The following statement provides a brief summary of the need for the attached emergency regulations. In support of this finding, attached is a recent letter sent to all permit holders and operators in the state by Commissioner Merculieff which more fully explains the effect these emergency regulations will have and the consumer protection and public interest rationale behind them.

A statement of the facts constituting the emergency is:

1. **VENDORS:** The Gaming Reform Act of 1988 authorizes municipalities and qualified nonprofit organizations (called permittees) to contract with a licensed operator to conduct authorized games of chance and skill on their behalf. Third party (i.e., neither a permittee nor an operator) retail businesses, commonly called "vendors," are currently selling pull-tabs and paying out prizes, even though the statutes do not authorize or even contemplate this unlicensed vendor class. The attached emergency regulations will considerably curtail this unlicensed class. This is necessary for the following reasons:

- (a) Because vendors are neither licensed nor regulated, when the division receives a complaint about a pull-tab game sold by an unlicensed entity, its only recourse is to take action against the permittee, not against the vendor who really is the cause of the complaint. Suspending or revoking the permit of a nonprofit organization for a "vendor" problem is not in the best interest of the public.

- (b) Because of the proliferation of pull-tab games sold through third party vendors, it is now very difficult to determine whether the game the vendor is selling is even being conducted under the auspices of a gaming permit. Investigations have revealed cases where vendors have sold illegal games and pocketed the entire game proceeds. This is in violation of Alaska statutes and reduces the fundraising potential of nonprofit organizations involved in legitimate gaming activity.

- (c) Finally, because "vendors" are unregulated, there is no required contractual relationship between a permittee and a vendor as is required between permittees and operators. Therefore, permittees are not necessarily guaranteed the statutory rate of return (15%) from vendors.

These emergency regulations are necessary to limit third party vendors until such time as the Legislature has an opportunity to determine whether it wants to establish a "vendor" class license. The department believes it must limit unregulated vendors to assure that only licensed permittees or operators are conducting authorized games of chance and skill and are fulfilling the reporting and accountability requirements of state law designed to protect the best interest of the public.

2. OPERATORS. Alaska Statute 05.15.122 clearly provides that anyone conducting gaming activities on behalf of a permittee must be licensed as an operator. Lack of enforcement and inconsistent interpretation of the Gaming Reform Act has allowed multiple permittees to avoid the licensing, bonding, and reporting requirements of the law as it pertains to an operator and to avoid the statutory limitations on prize awards. The attached emergency regulations will assure compliance with the state's gaming statutes and require persons conducting gaming activities on behalf of permittees to become operators. This will effectively require any person running a professional bingo hall or pull-tab store to become an operator and, therefore, enforce accountability for the gaming activities the person supervises, as mandated by statute. The main concern is that all operations are held accountable and correctly report. This will assure that permittees receive their proper proceeds. To compel operator compliance, and in recognition of the significant number of unlicensed operators currently conducting gaming activities in the state, the commissioner finds, under AS 05.15.060(12), that it is necessary to provide for a temporary waiver of the bonding requirements under AS 05.15.122. Only in this way will the public be protected from illegitimate gaming activities and will charitable organizations be assured of getting at least the minimum funds guaranteed by statute for gaming activities conducted under the auspices of their permit.
3. PULL-TAB GAMES AS LOTTERIES: A statewide lottery as it is commonly understood is not authorized under Alaska Statutes. Currently, however, there exists a game advertised as a "lottery" which is causing some very real confusion to Alaskans. It implies that there is a statewide lottery, which, in fact, there is not. In reality, this "lottery" is a statewide pull-tab game and operates in contravention of statute. Adoption of these emergency regulations reinforces the intent of the existing gaming statute that a pull-tab game and a series have the same meaning and will cause the conduct of any statewide pull-tab games as they presently exist to wind-down.

The department finds that eliminating this kind of statewide pull-tab gaming will help prevent small pull-tab gaming operations that are presently conducted directly by permittees from having their potential profits considerably reduced by a large operation acting through "vendors" across the entire state.

As a consequence of the statewide pull-tab game, others have requested authorization to operate similar statewide gaming activity. The department finds that it was never the intent of the Legislature to allow such large statewide pull-tab operations and that it is not in the public's best interest to allow such games to proliferate without specific legislative language approving such operations.

4. NUMBER OF BINGO SESSIONS. Currently, regulation 15 AAC 105.110(5) limits all bingo operations to no more than nine bingo sessions in any one calendar month. The department finds that, as intended, this restriction has reduced the number of bingo sessions allowed in the more competitive urban areas of the state, which are mostly conducted by operators, but that it has also unreasonably restricted the number of sessions allowed in rural areas of the state, where bingo is primarily permittee-run. In the rural areas this restriction has had an adverse financial impact on organizations conducting their own bingo operations, where their funding is heavily dependent upon these proceeds and where the game itself has become an important social activity. It is in the financial and social interest of rural Alaska that this regulation is adopted.

ADOPTION ORDER

Under authority of AS 05.15.060 and AS 05.15.130, the attached regulations (and repeals) are therefore adopted as emergency regulations (and repeals) to take effect immediately upon filing by the Lieutenant Governor as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

DATE: 10/3/89
Juneau, Alaska



Larry Mercurieff, Commissioner
Department of Commerce and
Economic Development

FILING CERTIFICATION

I, Stephen McAlpine, Lieutenant Governor for the State of Alaska, certify that on October _____, 1989, at _____, m., I filed the attached regulations according to the provisions of AS 44.62.

Lieutenant Governor

Effective _____

Register _____

KH/mm1697t
100389a

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

CHAPTER 34.
GAMES OF CHANCE AND SKILL

12 AAC 34.20J. OPERATOR LICENSE REQUIRED. (a) Except as provided in (b) of this section, an operator licensed under AS 05.15.122, must be retained on contract when any one of the following is true of the gaming activity being conducted:

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

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

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

Authority AS 05.15.060
AS 05.15.122
AS 05.15.130
AS 05.15.210

12 AAC 34.210. DOCUMENTATION OF BONDING. (a) Operators licensed under AS 05.15.122 after October 1, 1989 are not required to document compliance with the bonding or surety requirements of AS 05.15.122(b)(5) and 15 AAC 105.320 until July 1, 1990. (Eff. / / , Register)

Authority: AS 05.15.060
AS 05.15.122
AS 05.15.130
AS 05.15.165

12 AAC 34.220. OPERATOR REPORTING REQUIREMENTS. An operator shall comply with all monthly, quarterly, and annual reporting requirements of AS 05.15 and 15 AAC 105, and, if licensed after October 1, 1989, shall report all activities conducted since July 1, 1989, if applicable. (Eff. / / , Register)

Authority: AS 05.15.060
AS 05.15.122
AS 05.15.130
AS 05.15.165

12 AAC 34.230. OPERATOR RECORD KEEPING REQUIREMENTS. An operator shall comply with all record keeping and accounting requirements of AS 05.15 and 15 AAC 105, and, if licensed after October 1, 1989, those records must account for activities conducted since July 1, 1989, if applicable. (Eff. / / , Register)

Authority: AS 05.15.060
AS 05.15.122
AS 05.15.130
AS 05.15.165

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

Authority: AS 05.15.060
AS 05.15.130
AS 05.15.187
AS 05.15.210

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

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

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

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

- (2) a paid employee of a permittee;
- (3) a licensed operator under contract to a permittee; or
- (4) a paid employee of a licensed operator.

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

Authority: AS 05.15.060
AS 05.15.130
AS 05.15.187
AS 05.15.210

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

Authority: AS 05.15.060
AS 05.15.187
AS 05.15.210

12 AAC 34.900. PRIZE AWARD LIMITATIONS. (a) The prize award limitations established in (b) of this section take effect January 1, 1990.

(b) A permittee conducting authorized games on its own behalf is limited to the following prize award limitations per calendar year:

- (1) bingo, \$840,000; and
- (2) the aggregate of all other authorized games, \$1,000,000.

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

Register , , 1989 EMERGENCY REGULATIONS 12 AAC 34.900
15 AAC 105.110

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

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

Authority: AS 05.15.060
AS 05.15.130
AS 05.15.180

12 AAC 34.990. DEFINITIONS. In this chapter

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

Authority: AS 05.15.060
AS 05.15.130

15 AAC 105.110(5) is repealed:

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

Authority: AS 05.15.060

15 AAC 105.350 is repealed:

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



LOTTERY ALASKA

STATE OF ALASKA
DEPARTMENT OF COMMERCE
& ECONOMIC DEVELOPMENT

FEB 21 1991

DIVISION OF
OCCUPATIONAL LICENSING

February 13, 1991

John Hansen, Gaming Manager
State of Alaska
Department of Commerce and
Economic Development
P. O. Box D-Lic
Juneau, AK 99801

VIA FAX

Dear Mr. Hansen: *John*

Thank you for your letter of February 12 and your review of our promotional plans. It is certainly appreciated.

However, your second paragraph suggests that the public may be confused by the means of entering the contest ie: a contribution at the store level of \$1 or writing in for a free game piece. The "no contribution of purchase required..." statement is designed to clearly inform the public of their two options in playing the game. I am at a loss as to why this would lead one to believe that they must make a contribution to enter the instant-win game. Explaining both methods of entering accomplishes just the opposite and eliminates any potential confusion. Additionally, the no purchase required statement appears on all of our point of sale materials, as well as on the ticket itself. Customers will be aware of the "no purchase required" rule prior to ever obtaining a game piece. We have modeled the game rule language after the language used in similar promotions which appear to be conducted with no public confusion.

Your letter, quite frankly, was to be shown to potential retailers to give them a comfort level regarding their participation in these promotions. While I realize that this is not your problem, I would like your approval for one of two options; another letter that does not suggest potential confusion with our game rules, assuming my explanation makes sense to you, or your approval to edit your second paragraph prior to distribution to those accounts who may require assurances that this is not gambling.

Please respond at your earliest convenience. Thank you again for your time, I know you are busy.

Sincerely,

Daniel A. Sullivan
Vice President

DAS/rtp

February 12, 1991

Mr. Robert D. Thomas
President
Lottery Alaska, Inc.
733 W. 4th Avenue, #400
Anchorage, AK 99501

Dear Mr. Thomas:

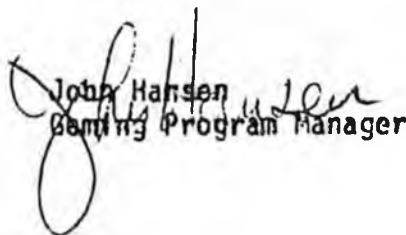
Re: Instant Win Game Proposal

Your proposal to conduct fund raising promotional activities using a product that requires no purchase to participate is not considered gaming. Accordingly, it is not an activity covered in AS 05.15 and outside our jurisdiction. This position was outlined to you in Mr. Burns' letter of January 14, 1991.

After reviewing the information you submitted, the only additional comments I have relate to the method of entering the contest. Your flyer states "contribute \$1 and receive one instant win game." It further states, "No contribution or purchase required." This may confuse the public to believe they must make the contribution to enter the instant win game. This comment is for information purposes only.

I hope this letter clarifies our position on your promotion.

Sincerely,


John Hansen
Gaming Program Manager

JH/lvs4752t
021191b

January 14, 1991

Mr. Robert D. Thomas, President
Lottery Alaska, Incorporated
733 West 4th Avenue, Suite 400
Anchorage, AK 99501

Dear Mr. Thomas:

Your memorandum to Acting Commissioner Willis Kirkpatrick has been referred to this office for response. This is to advise you, given that Lottery Alaska's proposal to promote retail products through a latex ticket does not involve the use of charitable gaming permits or licenses, the Division of Occupational Licensing would have no involvement in approving or disapproving your plans. However, there may be some questions regarding whether or not the activities which you are proposing in your memorandum of December 13, 1990 could be considered gambling; I am, therefore, referring your memorandum and its attachments to Assistant Attorney General Gary Amendola for his review and comment directly to you.

Please give Mr. Amendola a few days to review the material and then feel free give him a call.

Sincerely,

Randall P. Burns
Director

RPS/dkt3497c

011991a

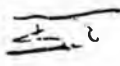
cc: Gary I. Amendola
Assistant Attorney General
Department of Law

John Hansen, Manager
Games of Chance and Skill
Division of Occupational Licensing



DT: Dec. 18, 1990

TO: Mr. Willis Kirkpatrick
Acting Commissioner
Dept. of Commerce & Economic Dev.

FR: Robert D. Thomas, Pres. 
Lottery Alaska, Inc.

RE: Retail Product Promotions

The following discussion contains proprietary information which I request to be held in confidence and only shared to a degree reasonably necessary for proper review by your department.

The principals of Lottery Alaska, Inc. are in the process of developing a promotional game similar to other promotions conducted in Alaska by major product manufacturers such as Pepsi, Coke, Planters Peanuts, VISA, McDonalds, American Express, Frito-Lay, Kodak, Playboy, Revlon, Sony, TV Guide, Garcia's, Anchorage Daily News, Anchorage Times, the NFL, etc. The game would provide purchasers of an informational product an opportunity to win cash and/or merchandise prizes via a game piece associated with that purchase, and would provide for a free entry into the same game without a requirement for product purchase or other consideration to the game promoter.

Specific marketing details of the contemplated promotional game are still in research and design stages, however, the promotion will utilize a latex-type game piece which will award prizes to participants based upon a random distribution of winning play symbols. Players will rub off the latex covering on a game piece to determine if they have won a prize. All players, those purchasing the product and receiving game pieces and those receiving free game pieces without a product purchase, will use the same play method. A draft copy of the intended game rules and an example of a similar product and promotional game sold in Alaska are inclosed.

The intent of this communication is twofold:

1. To inform your offices of our plan to market this promotion in hopes of preventing any misunderstanding which might arise because of possible similarities to some regulated charitable gaming activities; and,
2. To assure that the planned promotion does not conflict with Alaska law or contain an element which would require compliance with current Alaska games of chance regulations.

page 2.
12/11/90
W. Kirkpatrick

Our legal research of U.S. Criminal Code, U.S. Postal Service statutes and regulations, Federal Trade Commission regulations and rulings, Federal Communication Commission statutes and regulations, Alaska Criminal Code, and Alaska Games of Chance and Skill statutes and regulations conclude that the planned promotional game does not constitute gambling. It is our understanding that since this activity does not constitute gambling, regulations affecting gambling activities do not apply.

It is also our understanding that the June 1990 edition of "Statutes and Regulations, Games of Chance and Skill" from the Alaska Department of Commerce and Economic Development, Division of Occupational Licensing [containing Games of Chance and Contests of Skill Statutes (AS 05.15), Games of Chance and Skill Regulations (Commerce 12 AAC 34) and Authorized Games of Chance and Skill Regulations (Revenue 15 AAC 105)], and Alaska Attorney General's opinion of Feb. 13, 1986 regarding "Contests, sweepstakes & lotteries", by Linda M. O'Bannon, Asst. Atty. General are the two documents of reference for determining if an activity constitutes gambling subject to regulation by the Gaming Division of Occupational Licensing.

Are there any other statutes, regulations, attorney general opinions, or court rulings that should be considered to assure that a product promotional game, such as described above, is in compliance with current Alaska law?

Our intent is to launch this promotion by the end of January, 1991. Since planning, design, production, advertising and distribution for such a promotion requires a minimum of six weeks to accomplish, we would like to know of any concerns you might have with this plan prior to Jan. 1, 1991.

incls: Draft Promotional Game Rules
Sample NFL Promotional Game and Game Rules

cc: J. Hansen, Occup. Licensing

(product name) INSTANT-WIN GAME
OFFICIAL RULES

How To Enter

1. Enter by purchasing a (product name) card. A free instant-win game piece is included with each card.
2. No purchase necessary to play instant-win game. For free game piece, send a hand written self addressed stamped envelope and a 3" x 5" card with the words ("product name") to (corporation name), P. O. Box _____, Anchorage, Alaska 995____. Limit, one game piece per request per day. Request must be received by May 31, 1991.
3. Promotion ends the earlier of June 30, 1991 or when the supply of (product name), Series 1, cards is exhausted.

How To Play

1. Rub off latex covered play area on game piece. Match 3 identical prize amounts on one game piece and win that prize.
2. Total prizes available in game, \$650,000. The prize amounts, number of prizes and odds of winning are:

<u>Prize Amount</u>	<u>Number of Prizes</u>	<u>Odds</u>
\$1	115,000	1:8.69
\$2	55,000	1:18.18
\$5	20,000	1:50
\$10	10,000	1:100
\$50	2,500	1:400
\$100	600	1:1,666.67
\$10,000	4	1:250,000
Total	203,104	1:4.72

Prize Redemption

1. All prizes must be redeemed before June 30, 1991. Instant win prizes of \$1, \$2, \$5 and \$10 must be redeemed at the retail location where the (product name) card was purchased. Prizes of \$50, \$100 and \$10,000 and all prizes from mail in requests must be redeemed by completing the back of winning game piece and mailing it to (corporation name), P. O. Box _____, Anchorage, AK 995____. Prize claims should be sent via certified mail and must be received by June 30, 1991. Allow four to six weeks for verification and delivery of prizes. No responsibility is assumed for lost, late, illegible or misdirected mail. Unclaimed (product name), Series 1, prizes as of June 30, 1991 will not be awarded. Winning game pieces become the property of (corporation name) and will not be returned.
2. Employees of (corporation name) and their immediate families are not eligible to win. No substitution of prizes permitted. All federal, state and local taxes on prize are the sole responsibility of prize winners. Prizes won by minors may require consent of parent or legal guardian before prize is awarded.

3. Game pieces which have the "void if removed" covering removed, are forged, mutilated, altered, illegible, improperly obtained, printed incorrectly or otherwise defaced are automatically void. Liability for any irregular game card is limited to replacement with another, subject to availability.
4. Prize winners agree to use of their name, address and photograph for publicity purposes without compensation. All participants agree to release (corporation name) and its authorized distributors from any and all liability for injuries and damages which may result from their participation in this promotion.
5. Sales of (product name) cards may be conducted only by employees of (corporation name) and its authorized retailers.

(Abbreviated rules printed on each game piece.)

Instant-Win Game Rules

1. Match 3 identical prize amounts on one game piece and win that prize.
2. No purchase necessary. For free game piece, send hand written, self addressed, stamped envelope and a 3" x 5" card with the words ("product name") to (corporation name), P. O. Box _____, Anchorage, AK 995____. Limit, one free game piece per request per day. Must be received by 5/30/91.
3. Redeem prizes of \$25 or less at the retail location where game piece was obtained. Redeem \$50, \$100 and \$10,000 prizes and all winning game pieces obtained from mail requests by completing back of the game piece and mailing to (corporation name), P. O. Box _____, Anchorage, AK 995____. Game pieces with \$50, \$100 and \$10,000 prize claims should be sent by certified mail. Claims must be received by 6/30/91. Only prizes claimed will be awarded.
4. Game subject to official rules. See Official Rules brochure at participating stores for complete rules and odds of winning. Promotion ends 6/30/91.

Name _____ Address _____

City, State, Zip _____ Phone _____

PROMOTIONAL GAME PIECE

P. 1

PRO SET PLAYBOOK I

**2 WAYS TO...
WIN
WITH THE
NFL!**


- * WIN A TRIP TO PRO BOWL AND NFL MEMORABILIA
- * SCORE POINTS TOWARD FREE NFL MERCHANDISE

FIRST IN A SERIES OF NFL PRO SET PLAYBOOKS

P. 2

**SCORE POINTS TOWARD
FREE MERCHANDISE!**

The More Points You Score the More Valuable Your FREE Merchandise



Rub Off to See How Many Points You Scored

**COLLECT POINTS AND ORDER NFL MERCHANDISE LIKE PRO LINE CAPS, T-SHIRTS, JACKETS
GET NFL PRO LINE MERCHANDISE TWO WAYS!**

(1) Free With Points
(2) 50% Off With 1/2 the Points

TO GET ALL THE DETAILS, SEND FOR YOUR FREE NFL PRO SET CHECK LIST & MERCHANDISE CATALOG NOW!

Send your full name and address to:
NFL Pro Set Catalog
15303 Dallas Parkway
Suite 336, LB36
Dallas, Texas 75248
Points Must Be Redeemed by June 30, 1991

P. 3

**WIN A TRIP TO THE AFC-NFC
PRO BOWL IN HAWAII
and Other NFL Memorabilia**

Exclusive Offer From the NFL



Rub Off to See If You Win

**65,000 CHANCES TO WIN!
BE A PART OF NFL HISTORY!**

GRAND PRIZE: All Expenses-Paid Trip to Hawaii as the Pro Set Pro Bowl MVP

FIRST PRIZES: One-of-a-Kind Memorabilia—Super Bowl Game Helmet, Game Jersey, and Game Balls Signed by MVP Jerry Rice

PLUS MANY OTHER PRIZES...

- Real AFC-NFC Pro Bowl Game Jerseys Worn by Players
- Rare Commemorative Super Bowl Tickets
- Souvenir Super Bowl Game Programs
- Limited Edition Media / Event Pins and Patches

P. 4

INSTANT WIN RULES

1. No purchase required. For free game piece, send a hand written, self addressed, stamped envelope to: Pro Set Game Piece, 15303 Dallas Parkway, Suite 336, LB36, Dallas, TX 75248. Requests must be received by August 31, 1990. We need not include return postage.
2. How to play: Scratch off concealed area on the Pro Set Instant Win Game Piece. If it shows a prize, you win instantly.
3. To claim a prize: Print your name, complete address, and daytime phone number on a 3 x 5" card, sign the winning game piece, make a photocopy for your records, and mail the ORIGINAL piece with the above information to: NFL Pro Set Prizes, 15303 Dallas Parkway, Suite 336, LB36, Dallas, TX 75248. IF YOU ARE A GRAND OR FIRST PRIZE WINNER, SEND REGISTERED MAIL, RETURN RECEIPT REQUESTED. Sweepstakes begins April 1, 1989. Prize claims must be received by November 30, 1990. No unclaimed prizes will be awarded.

All prizes must be obtained through normal channels, and all prize claims are subject to verification before any prize will be awarded. Decisions judged by Pro Set, Inc. are final. Game pieces that are mutilated or tampered with or contain printing or other errors are automatically void.

4. Prizes: (1) Grand Prize: 7 day, 8 night trip to Hawaii and the Pro Bowl on February 4, 1991, for three (3) people. (2) First prizes: (1) MVP Jerry Rice signed Game Helmet from Super Bowl XXIII. (1) Jerry Rice signed Game Jersey from Super Bowl XXIII. and (10) Official Super Bowl XXIII Wilson Game Balls signed by Jerry Rice. (88) Second prizes: Authentic 1990 AFC-NFC Pro Bowl Game Jerseys (500). Third prizes: Commemorative Super Bowl Tickets (10,000). Fourth prizes: Official Media Event Game Pins (10,000). Fifth prizes: Super Bowl Patches (44,401). Sixth prizes: Collectors Game Programs. No substitutions or transfer of prizes. Odds of winning in instant prize: Grand 1 in 820,000. First 1 in 901,647. Second 1 in 444,418. Third 1 in 92,840. Fourth 1 in 682. Fifth 1 in 682. Sixth 1 in 1,034. Estimated value of prize categories: Grand, \$10,000. First, \$3,800. Second, \$21,500. Third, \$75,000. Fourth, \$100,000. Fifth, \$250,000. Sixth, \$145,314.
5. Prize winners will be verified as winners, notified by mail, and may be required to sign an affidavit of eligibility and release, which must be returned within 14 days of notification. Winners who are minors will have prizes awarded in the name of parent or legal guardian. Taxes, if any, are sole responsibility of winners. Sponsors are not responsible for late, lost, stolen, or misdirected mail.
6. The Instant Win game is open to residents of the U.S. except residents of VI, AL, and III employees and their families of the NFL, NFL Properties, Pro Set, Inc., NFL Players Association, and their advertising, promotion, and production agencies. Void where prohibited, taxed or otherwise restricted by law. All federal, state, and local laws apply.
7. For a list of winners, send a stamped, self addressed envelope by January 31, 1991, to: NFL Pro Set Instant Win Game Winners List, 15303 Dallas Parkway, Suite 336, LB36, Dallas, TX 75248.



JOHN B. COGHILL
LIEUTENANT GOVERNOR

STATE OF ALASKA

PO BOX 44

JUNEAU 99811-0111

907 465-3320

LEGISLATIVE SOLUTION
REFORM

September 30, 1991

The concern of government is to keep professional gambling and its attendant problems and profits out of the simple innocence of gaming for charity or responsible community causes.

The policy for charitable gaming must be put in place in the statutes. Keep the system simple to limit the state's responsibility and bureaucratic growth.

The goal is to place the responsibility of conducting charitable gaming in Alaska on the qualified organizations who elect to raise funds by means of charitable gaming.

Conducting charitable gaming is a privilege that carries a certain level of responsibility. If a charitable organization cannot accept the responsibilities set forth, then they should elect to raise funds by other means.

Legislative provisions:

1. Clarify definition of organizations that qualify for gaming permits; currently qualifications are very broad. A clear policy needs to be established to clarify what types of organizations should be able to conduct charitable gaming, and to what degree (ie - large on going, pulltabs and bingo; or one time short duration raffles or monte carlo events)
2. Permittees are responsible for the gaming activity; no permit renewal if responsibility is not met, permittees should be encouraged to enroll the services of the volunteer.
3. Burden of proof of compliance will be on the charity; this should not be a bureaucratic responsibility.