

11881 SEMATE JUDICIARY

LEGAL SERVICES

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MEMORANDUM

April 19, 2005

SUBJECT: Sectional Analysis of HB 272, relating to Card Rooms
(Work Order No. 24-LS0916\A)

TO: Representative Pete Kott
Attn: Mike O'Hare

FROM: Kathryn L. Kurtz *KK*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Intent language.

Section 2. Adds a new chapter providing for the regulation of card rooms.

Article 1. Card Games and Card Rooms.

Sec. 05.18.010. Notwithstanding the state laws criminalizing gambling, permits the operation of a card room by a licensed owner in accordance with the chapter. Permits the playing of non-banking poker, pan, rummy, bridge, and cribbage games in card rooms.

Sec. 05.18.020. Gives employees of the department of revenue the right to be present in a card room.

Sec. 05.18.030. Permits wagering on card games, under regulations adopted by the department. Limits wagering to those present in the room, prohibits wagering using negotiable currency, requires the purchase of tokens or chips from the owner of the card room.

Sec. 05.18.040. Prohibits persons under 21 years of age from being in card rooms, and from wagering on card games in card rooms.

Article 2. Administration.

Sec. 05.18.110. Authorizes and requires the department of revenue to administer and enforce the chapter.

Sec. 05.18.120. Requires the department to collect license fees, and to penalize non-criminal violations of the chapter. Gives the department access to premises held by a licensed card room owner.

Sec. 05.18.130. Requires the department to adopt licensing standards for licenses related to card rooms, sets certain standards, and requires the department to obtain certain information from applicants. Provides for hearings for individuals aggrieved by department actions related to licensing.

Sec. 05.18.140. Requires governor to appoint a five member card room advisory board to make recommendations on policy and licensing to the department.

Sec. 05.18.150. Authorizes the department to impose penalties on licensees and suspend licenses for violations of the chapter.

Sec. 05.18.160. Provides a process for licensees to complain to the department about unnecessarily disruptive investigations of card operations.

Sec. 05.18.170. Provides a process for transfer of licenses.

Sec. 05.18.180. Provide for suspension of an owner's license for card room health or safety issues.

Sec. 05.18.190. Provides for public access to records relating to license applications and information licensees are required to provide.

Article 3. Licenses.

Sec. 05.18.200. Provides for the issuance of licenses to own a card room and conduct card games. Specifies information required on the application, the application fee, and disqualifications.

Sec. 05.18.210. Lists factors for the department to consider in evaluating an application for an owner's license.

Sec. 05.18.220. Specifies the annual per table license fee and the bond requirements for licensed owners.

Sec. 05.18.230. Requires licensed owners to hold quarterly card tournaments to benefit nonprofit educational institutions.

Sec. 05.18.240. Specifies that an owner's license has a five year term.

Sec. 05.18.250. Permits the department to revoke an owner's license if the licensee has begun regular operations more than 12 months after the license application is approved, if the department determines that revocation is in the best interests of the state.

Sec. 05.18.260. Permits an owner to renew an owner's license for an additional five year term, provided the requirements of the section have been met, the license fees paid, and the bond kept in force. Requires the department to conduct a complete investigation of the owner's compliance with the chapter every five years, and permits the department to investigate compliance at any time. Costs of investigations are to be borne by the licensed owner.

Sec. 05.18.270. Permits a licensed owner to operate a training school for occupational licensees.

Sec. 05.18.280. States that an owner's license is a revocable privilege and not a property right.

Sec. 05.18.290. Requires the department to identify the card room related occupations that are to be licensed under the chapter. Require that the department limit each occupational licensee to managing card operations for one licensed owner.

Sec. 05.18.300. Sets forth requirements for issuance of an occupational license; establishes two year validity of occupational license.

Sec. 05.18.310. Establishes minimum qualifications for an occupational license.

Sec. 05.18.320. Sets out the requirements for an application for an occupational license.

Sec. 05.18.330. Lists grounds for rejection of an application for an occupational license.

Sec. 05.18.340. Lists grounds for suspending, revoking, or restricting an occupational license.

Sec. 05.18.350. States that the chapter does not prohibit a licensed owner from contracting with a school approved by the department for the training of occupational licensees.

Sec. 05.18.360. Provides that training of occupational licensees may take place at a card room or a school.

Sec. 05.18.370. Specifies that the department may issue an occupational license to a convicted felon, notwithstanding sec. 05.18.310, if the department determines that the individual has been rehabilitated, and outlines the criteria for making that determination.

Article 4. Crimes.

Sec. 05.18.400. Lists actions related to card rooms that constitute class A misdemeanors and class C felonies.

Sec. 05.18.410. Creates a presumption that a person possessing a cheating device intended to use that device.

Article 5. General Provisions.

Sec. 05.18.500. Creates the state gaming fund to receive all revenues from card room activities under the chapter.

Sec. 05.18.900. Definitions.

Section 3. Changes the definition of "gambling" in AS 11.66.280 for purposes of Alaska's criminal statutes to exclude card room activities authorized under AS 05.18.

Section 4. Provides that the office of administrative hearings shall conduct all adjudicative administrative hearings required under AS 05.18.

KLK:med
05-276.med

HB 272 - "An Act relating to card rooms and card operations."

Possible gross sales & employee information for card room operations

\$4 Rake	5	10	15	25	50	100	150
Tables	5	10	15	25	50	100	150
\$90/hr avg	\$450.00	\$900.00	\$1,350.00	\$2,250.00	\$4,500.00	\$9,000.00	\$13,500.00
9hrs/day avg table use	\$4,050.00	\$8,100.00	\$12,150.00	\$20,250.00	\$40,500.00	\$81,000.00	\$121,500.00
Yearly Sales*	\$1,478,250.00	\$2,956,500.00	\$4,434,750.00	\$7,391,250.00	\$14,782,500.00	\$29,565,000.00	\$44,347,500.00

*exclusive of non-card game operations

Avg # Employees Per Table	4.5	4.5	4.5	4.5	4.5	4.5	4.5
Total Number of Employees	22.5	45	67.5	112.5	225	450	675

Types of Employees

Dealer (Mimum Wage + Tips)	\$250-300/day *
Cashiers (part-time)	\$10/hr *
Janitorial/Maintenance	\$8/hr *
Security	\$10/hr *
Brushperson	\$10/hr *
Shift Manager	\$45,000/yr *
Card Room Manager	\$65,000/yr *
	*Plus Benefits

Resolution of the Presbytery of Alaska
Adopted September 23, 2005 at Sheldon Jackson College in Sitka, Alaska

The Presbytery of Alaska, sincerely believing that the social costs associated with gambling seriously exceed any benefits that gambling provides to society, hereby declares its opposition to the expansion of legalized gambling within the State of Alaska. We therefore oppose laws which would increase gambling within the state, including those which would permit "for profit" card rooms, casinos, video gambling systems, or governmentally operated gambling programs.

The Presbytery instructs the Stated Clerk to communicate this action to the member churches of the Presbytery, encouraging them to support efforts against expanding gambling.

The Presbytery further requests the Stated Clerk to communicate this position to the appropriate members of the Alaska State Legislature and the Governor of the State of Alaska.

Background

The Presbyterian Church (U.S.A.) has a long history of opposition to all forms of gambling as an abdication of stewardship. In 1950 the 162nd General Assembly of the PCUSA described gambling as "an unchristian attempt to get something for nothing or at another's expense." In 1975 the 187th General Assembly of the PCUS adopted a statement calling upon its members "to exert influence on local, state and national legislative bodies to oppose all forms of legalized gambling, e.g., lotteries, bingo, pari-mutuel betting, dog racing, horse racing, betting on sports games, casino games and numbers." In 1992 the 204th General Assembly of the PCUSA issued a statement which petitioned civic and government leaders to resist state sanctioned gambling and the false promises for fiscal benefits from such and encouraged state councils of churches and related public policy advocacy groups to be active in resisting the spread of legalized gambling.

In October 2003, the Presbytery of Alaska declared its opposition to the practice of video poker in the State of Alaska, whether it be publicly or privately operated.

The Alaska State Legislature currently has two bills (House Bill 272 and Senate Bill 165) under consideration which could permit the operation of "for profit" card rooms within the state. The house bill was approved by the State House and was sent to the State Senate for their consideration. Both bills are currently in the Senate Judiciary Committee and will remain available for consideration during 2006. The State House of Representatives created a task force which is exploring the creation of a State Gaming Commission.

**Written Remarks of Guy Warren, Stated Clerk Presbytery of Alaska
To The Senate Judiciary Committee
On HB 272 - Card Rooms and Operations
March 23, 2006**

Good Morning, my name is Guy Warren, and I am the Stated Clerk of the Presbytery of Alaska. I thank the committee for this opportunity to speak on this bill.

The Presbytery of Alaska consists of the 15 member churches of the Presbyterian Church U.S.A. from Yakutat in the north to Metlakatla in the south.

The national body of the Presbyterian Church U.S.A. has on several occasions publicly spoke against increased legalized gambling. Likewise our local organization has issued resolutions opposing increased legalized gambling, including a resolution approved last fall. A copy of this resolution has been included with my written remarks.

We believe that approval of this bill will represent a significant step towards situations which will not be in the best interest of the state government or the citizens it serves. It will increase the social problems we face, and it will be the next step in a progression to ever increasing gambling, which will further increase these social problems.

While some hold that the approval of this legislation will eliminate illegal gambling, we believe that the experience seen in other localities would demonstrate this is not the case. Those who become addicted to gambling, as some will, soon find the limited payouts available to them at the card rooms can be more than made up for at the illegal gambling facilities.

We also believe that the solution to illegal gambling is not simply to legalize it. Certainly we would believe that the legislature would never consider such a solution to other illegal acts. We also believe that the costs the state will incur attempting to repair the social ills that gambling brings with it will exceed whatever benefits the approval of this bill might bring. These social ills include increased domestic violence, various psychological and social problems and an increased incidence of suicide.

We believe it would be prudent and only right for the Legislature to seek detailed and independently researched estimates on the social costs expanding legalized gambling will bring prior to taking steps that once taken, might prove very difficult to undo.

The people of this state have spoken in the matter of gambling and they spoke loudly. A proposal to expand gambling within the state was presented to the people in 1990. This measure was defeated by over 40,000 votes, almost a 2:1 margin. We would think it only appropriate that the legislature not override this clear mandate of the people.

We are not unaware of the increased popularity of card games in this country. Cable television has an impressive array of televised Poker games on display. The players of these games appear happy and certainly not troubled by the ills of gambling. There is a simple

reason for this. Those seen in these programs have already won. As an example, the typical World Poker Tour program begins with six players. Each of these players will win thousands of dollars. What the program does not show is the hundreds of players who lost \$15,000 to \$25,000 each to finance the televised prizes. Do we ever hear the stories of the problems these losses cause? Naturally, we do not. Rest assured, these problems do exist there, and will exist at the card rooms, this bill would establish.

Finally, lest some conclude that a church group's opposition to gambling should in some way be seen as a distorted view, I would remind the committee, that there have been political organizations who have expressed an opposition to this as well. The 2004 Alaskan Republican party platform said it well, "We believe any expansion of gaming in Alaska is detrimental to our families and society."

Our state's problems with illegal gambling are not nearly so desperate as to take the significant gamble this bill proposes. Let us learn from the mistakes of the other states and not proceed down the path of gambling ruin.

Thank You

FROM | Leader Creek

FAX NO. : 9075618141

Apr. 05 2006 11:48AM P1



Alaska State Legislature

Please enter into the record my testimony to the Senate Judiciary
committee name

Committee on HB 272 Card Rooms & Operations, dated 4-6-2006
bill # / subject public hearing date

I am in favor of HB 272.

Signed: *Rod E. Esmo (Rod E. Esmo)*
Testifier

Representing (optional)
536 E. 4th Ave. - Anch. Ak 99503
Address

Phone number *907-561-8141*



Alaska State Legislature

Please enter into the record my testimony to the Senate Judiciary
committee name

Committee on HB 272 Card Rooms & Operations, dated 4-6-2006
bill # / subject public hearing date

I SUPPORT HB 272

Signed: *Rachel Longest*
Testifier

Self
Representing (optional)

315 S. Park St. Anchorage, AK. 99505
Address

907-338-5325
Phone number



Alaska State Legislature

Please enter into the record my testimony to the Senate Judiciary
committee name

Committee on HB 272 Card Rooms & Operations, dated 4-6-2006
bill # / subject public hearing date

I AM ONE OF MANY POKER PLAYERS IN ALASKA THAT HAS TO GO OUTSIDE THE STATE TO PLAY POKER LEGALLY. I WOULD MUCH RATHER STAY IN ANCHORAGE & PLAY WHEN I WANTED & WHERE I WANTED

I WOULD VERY MUCH LIKE TO SHOW MY SUPPORT FOR HB 272, PLEASE LET THIS BE REFLECTED AS MY TESTIMONY.

Signed:

Jim Stewart
Testifier

SELF

Representing (optional)

3437 STANFORD ANCH, AK 99508
Address

Phone number



Alaska State Legislature

Please enter into the record my testimony to the Senate Judiciary
committee name

Committee on HB 272 Card Rooms & Operations, dated 4-6-2006
bill # / subject public hearing date

I AM IN SUPPORT OF
HB 272.

Signed: Wesley S. Watkins WESLEY S. WATKINS
Testifier

Representing (optional)
918 LAKE GRAYSON DR KATY TX 77494
Address
281-351-1212
Phone number



Alaska State Legislature

Please enter into the record my testimony to the Senate Judiciary
committee name

Committee on HB 272 Card Rooms & Operations, dated 4-6-2006
bill # / subject public hearing date

I SUPPORT HB 272

Signed: W R Borchert H K Bodeusticup
Testifier

Representing (optional)
2003 W 47 ANCHORAGE ALASKA 99517
Address
907 248 0278
Phone number

Question to the Sponsor of HB 272
Posed by the Senate Judiciary Committee
Dated 03/29/2006

- ❖ Can a minority shareholder of the establishment be a felon? (Legal) (Guess) Theoretically yes. The license is tied to one individual and there is an express prohibition on the licensee having been convicted of a felony, however there is no express prohibition on a minority shareholder. The bill requires a licensee to provide the names of any shareholders with a 20% interest or greater (Page 9, lines 27-29)
- ❖ Are there limits of profitability (Rake or the Cut) in the bill? (French) To be determined by the Department under regulation making authority (Page 4, lines 7-8)
- ❖ Why was the provision of the municipal vote to establish and or renew a card room license removed on the House Floor last year? (Seekins/Huggins)
- ❖ After review of the minutes of the House Floor Session, it was indeterminate as to why the municipal vote provision was removed.
- ❖ Is the license non transferable? (Seekins) Although there are stipulations about how the license may be transferred, ultimately under this version, a license is transferable (Page 8, Lines 12-23)
- ❖ Based upon the fact that this is a cash intense business, are there provisions and enforcement regulations in the bill to monitor and enforce activities? (Daily tally sheets, closed circuit TV, etc.)(French) (These were regulations that were to be determined by the Department of Revenue... The sponsor testified that we would have no problem putting them into statute). No, it does not appear that such provisions are included in the bill. If we look at Washington state as a model, when they adopted their legalized gambling statutes they created a gaming commission that was tasked with and given authority for promulgating regulations to this effect. We would need to adopt such provisions normally found in regulation in Alaska statute if we do not delegate this regulation authority to the Dept. of Revenue.
- ❖ What would be the effective dates in order to get Revenue up to speed on enforcement? There is currently no effective date (Guess).
- ❖ Are there provisions in the bill regarding hours of operation and Rakes, or would they be handled through regulation? (Guess & French) See the answer regarding cash handling enforcement and regulation, the authority and responsibility for this is granted on Page 4, Lines 3-8 of LS0916\Y.A
- ❖ How are cheats and or cheating defined? (Guess) Cheating is defined in the bill under the definitions section. If it seems that this definition is not sufficient there is a more detailed definition under the Revised Code of Washington (RCW). This definition can be found on Page 18, line 29.
- ❖ Are there prohibitions for other forms of gaming? (i.e.; pull-tabs or bingo)(Guess) (French)

- ❖ There are no provisions in the current bill to prohibit other forms of gaming (pull-tabs or bingo, etc)

24-LS1830A
Kurtz
4/5/06

SENATE CONCURRENT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Introduced:

Referred:

A RESOLUTION

1 **Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State**
2 **Legislature, concerning House Bill No. 272, relating to card rooms and card operations.**

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 That under Rule 54, Uniform Rules of the Alaska State Legislature, the provisions of
5 Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, regarding
6 changes to the title of a bill, are suspended in consideration of House Bill No. 272, relating to
7 card rooms and card operations.

CS FOR HOUSE BILL NO. 272()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVE KOTT

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to card rooms and card operations."**

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

3 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 **LEGISLATIVE INTENT.** This chapter is intended to benefit the people of Alaska by
6 promoting tourism and assisting economic development. The public's confidence and trust
7 will be maintained only through the comprehensive law enforcement supervision and strict
8 regulation of card rooms and card operations under AS 05.18.

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

10 **Chapter 18. Card Rooms.**

11 **Article 1. Card Games and Card Rooms.**

12 **Sec. 05.18.010. Card rooms; rake; municipal regulation.** (a) A person may
13 establish and operate a card room in the state if the person complies with the licensing
14 and other requirements of this chapter and of the municipality in which the card room
15 is located, as well as the statutory requirements applying to businesses generally.

1 (b) The following nonbanking card games may be played in a card room,
2 according to rules prescribed in regulation by the department:

- 3 (1) poker;
- 4 (2) pan;
- 5 (3) rummy;
- 6 (4) bridge; and
- 7 (5) cribbage.

8 (c) The maximum fee or rake a licensed owner may collect from players in a
9 card game for providing a dealer, table, location for playing the card game, or other
10 services related to the card game is \$4.00 a game. In this subsection, "rake" means a
11 percentage of the total amount wagered by all players in a game during the course of
12 that game.

13 (d) A municipality may regulate the hours of operation and other matters
14 relating to card rooms within that municipality.

15 **Sec. 05.18.020. Presence of department employees in card rooms.**
16 Employees of the department have the right to be present in a card room or any
17 adjacent facilities under the control of a licensed owner.

18 **Sec. 05.18.030. Wagers.** (a) The department shall determine minimum and
19 maximum wagers on card games.

20 (b) A licensed owner may not permit any form of wagering on card games
21 except as permitted under this chapter.

22 (c) Wagers may be received only from a person present in a licensed card
23 room. A person present in a card room may not place or attempt to place a wager on
24 behalf of another person who is not present in the card room.

25 (d) Wagering may not be conducted with money or other negotiable currency.

26 (e) All tokens or chips that are used to make wagers must be purchased from
27 the owner of the card room while the purchaser is in the card room or at a facility that
28 is adjacent to the card room and has been approved by the department. Before selling
29 any tokens or chips to a person, the licensed owner shall obtain from the person a
30 statement of the person's loss limit. Once the loss limit has been stated, a person may
31 not change the amount of the loss limit for at least 24 hours. Within any 24-hour

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period, a licensed owner may not sell to a person tokens or chips with a total value greater than the person's loss limit. For purposes of this subsection, "loss limit" means the maximum dollar amount a person is prepared to lose in a card room within a 24-hour period.

Sec. 05.18.040. Persons under 21 years of age. (a) A person who is under 21 years of age may not be present in a card room.

(b) A person who is under 21 years of age may not make a wager under this chapter.

Article 2. Administration.

Sec. 05.18.110. Administration, regulation, and enforcement. (a) The department shall administer, regulate, and enforce the provisions of this chapter. The department:

- (1) shall have all powers and duties specified in this chapter;
- (2) shall have all powers necessary to execute this chapter;
- (3) shall exercise jurisdiction and supervision over the following:
 - (A) all authorized card operations in the state;
 - (B) all persons in card rooms where card operations are conducted;
- (4) shall investigate and reinvestigate applicants and license holders and determine the eligibility of applicants for licenses and to require applicants and license holders to reimburse the department for the costs of the investigation and reinvestigation;
- (5) shall select from among competing applicants the applicants that promote the most economic development and that best serve the interests of the citizens of the state;
- (6) shall take appropriate administrative enforcement or disciplinary action against a licensee under this chapter that violates the provisions of this chapter;
- (7) shall investigate alleged violations of this chapter;
- (8) shall establish fees for the review and investigation of applications for the licenses that are authorized under this chapter;
- (9) may conduct hearings;

1 (10) may issue subpoenas to compel the attendance of witnesses and
2 subpoenas duces tecum for the production of books, records, and other relevant
3 documents;

4 (11) may administer oaths and affirmations to witnesses;

5 (12) shall prescribe a form to be used by a licensed owner as an
6 application for employment by potential employees of the card room and licensees of
7 the department;

8 (13) may revoke, suspend, or renew licenses issued under this chapter;

9 (14) may hire employees to gather information, conduct investigations,
10 and carry out other tasks under this chapter;

11 (15) may take any appropriate action to enforce this chapter, including
12 the issuance of notices of violations of this chapter or regulations of the department,
13 orders to cease and desist, and closure orders;

14 (16) may adopt regulations for the implementation and enforcement of
15 this chapter;

16 (17) shall adopt regulations governing the conduct of card games that
17 may be played in card rooms;

18 (18) shall adopt regulations specifying the form and amount of charges
19 a card room may impose on players for playing card games in the card room;

20 (19) may, through the office of the attorney general, apply to the courts
21 for injunctive and declaratory relief in aid of any action or decision of the department
22 on any matter within the jurisdiction of the department.

23 (b) The Department of Public Safety and the attorney general may assist the
24 department in conducting background investigations of applicants. The department
25 shall reimburse the Department of Public Safety for the costs incurred by the
26 department as a result of assistance provided to the department under this section. The
27 department shall make the payment from fees collected from applicants for licenses.

28 **Sec. 05.18.120. Violations; fees; inspections.** (a) The department shall

29 (1) provide for the establishment and collection of license fees
30 imposed under this chapter and deposit the license fees in the state gaming fund;

31 (2) levy and collect penalties for noncriminal violations of this chapter

1 and deposit the penalties in the state gaming fund.

2 (b) The department may enter an office, a card room, or other premises of a
3 person holding an owner's license where evidence of compliance or noncompliance
4 with this chapter is likely to be found.

5 **Sec. 05.18.130. Licensing.** (a) The department shall adopt standards for the
6 licensing of persons regulated under this chapter.

7 (b) The department shall require that the records, including financial
8 statements, of a person holding an owner's license must be maintained in the manner
9 prescribed by the department.

10 (c) The department may not issue a license to a person who has been
11 convicted of a felony in this or another jurisdiction.

12 (d) An applicant for a license under this chapter shall provide the following
13 information to the department:

14 (1) the name, business address, and business telephone number of the
15 applicant;

16 (2) an identification of the applicant;

17 (3) the following information for an applicant that is not an individual:

18 (A) the state of incorporation and any states where the
19 corporation is registered to do business;

20 (B) the names and addresses of all corporate officers;

21 (C) the identity of

22 (i) any entity in which the applicant has an equity
23 interest of at least 20 percent; the identification must include the state
24 of incorporation or registration, if applicable; however, an applicant
25 that has a pending registration statement filed with the United States
26 Securities and Exchange Commission is not required to provide
27 information under this item;

28 (ii) the shareholders or participants of the applicant; an
29 applicant that has a pending registration statement filed with the United
30 States Securities and Exchange Commission is required to provide only
31 the names of persons holding an interest of more than 20 percent of all

1 shares;

2 (4) a statement of whether the applicant has applied for or held any
3 other licenses related to card rooms or card operations, and if so, the state or other
4 licensing jurisdiction, the date of application, the license number if a license was
5 issued, or in the case of an unsuccessful application, the reason the license was not
6 issued;

7 (5) an identification of any business, including the state of
8 incorporation and all states where the business is registered to do business, if
9 applicable, in which an applicant or the spouse or children of an applicant has an
10 equity interest of more than 20 percent of all shares;

11 (6) if the applicant has been indicted, been convicted, pled guilty or
12 nolo contendere, or forfeited bail concerning a criminal offense other than a traffic
13 violation under the laws of any jurisdiction, the applicant must include the following
14 information under this paragraph:

15 (A) the name and location of the court, the arresting agency,
16 and the prosecuting agency;

17 (B) the case number;

18 (C) the date and type of offense;

19 (D) the disposition of the charge;

20 (E) the location and length of incarceration, if any;

21 (7) a statement of whether the applicant has filed or had filed against
22 the applicant a proceeding in bankruptcy or been involved in a formal process to
23 adjust, defer, suspend, or work out the payment of a debt, including the date of filing,
24 the name and location of the court, and the case and number of the disposition;

25 (8) a statement of whether the applicant has filed or been served with a
26 complaint or notice filed with a public body concerning a delinquency in the payment
27 of or a dispute over a filing concerning the payment of a tax required under federal,
28 state, or local law, including the amount, type of tax, taxing agency, and times
29 involved;

30 (9) the name and business telephone number of the attorney, if any,
31 who will represent the applicant in matters before the department;

1 (10) a description of a proposed or an approved card room, including
2 the expected economic benefit to local communities;

3 (11) the following information from each licensee involved in the
4 ownership or management of card operations:

5 (A) an annual balance sheet;

6 (B) an annual income statement;

7 (C) a list of the stockholders or other persons having a least 20
8 percent beneficial interest in the card room activities of the person who has
9 been issued the owner's license;

10 (D) any other information the department considers necessary
11 for the effective administration of this chapter

12 (e) The department shall review and approve or disapprove promptly and in
13 reasonable order all license applications.

14 (f) A party aggrieved by an action of the department denying, suspending,
15 revoking, restricting, or refusing the renewal of a license may request a hearing before
16 the department. A request for a hearing must be made to the department in writing not
17 more than 10 days after service of notice of the action of the department.

18 (g) Except as provided in AS 05.18.180, the department shall serve notice of
19 the department's actions under this section on a party by personal delivery or by
20 certified mail. Notice served by certified mail is considered complete three business
21 days following the date of the mailing.

22 (h) The department shall conduct all requested hearings under this section
23 promptly and in reasonable order.

24 **Sec. 05.18.140. Card room advisory board.** (a) The governor shall appoint
25 five individuals to serve on a card room advisory board. Appointments to the board
26 shall be for a period of five years.

27 (b) The card room advisory board shall make recommendations to the
28 department relating to license applications and policy issues relating to card rooms.

29 (c) Members of the card room advisory board serve without compensation and
30 are not entitled to per diem and travel expenses authorized by law for boards and
31 commissions under AS 39.20.180.

1 **Sec. 05.18.150. Violations of chapter; fraudulent acts.** If a licensee or an
2 employee of a licensee violates this chapter or engages in a fraudulent act, the
3 department may

4 (1) suspend, revoke, or restrict the license of a licensee;

5 (2) require the removal of a licensee or an employee of a licensee from
6 the card room;

7 (3) impose a civil penalty of not more than \$5,000 against an
8 individual who has been issued an occupational license for each violation of this
9 chapter;

10 (4) impose for each violation of this chapter by a licensed owner a
11 penalty of not more than the greater of \$10,000 or an amount equal to the licensee's
12 daily gross receipts for each day of the violation.

13 **Sec. 05.18.160. Investigative procedure; complaints.** (a) The department
14 shall review and make a determination on a complaint by a person who has been
15 issued an owner's license concerning an investigative procedure that the licensee
16 alleges is unnecessarily disruptive of card operations.

17 (b) A licensee filing a complaint under this section must prove by clear and
18 convincing evidence that the investigative procedure

19 (1) does not have a reasonable law enforcement purpose; and

20 (2) is so disruptive as to unreasonably inhibit card operations.

21 (c) For purposes of this section, the need to inspect and investigate a licensee
22 shall be presumed at all times.

23 **Sec. 05.18.170. Transfer of licenses; prohibitions.** An owner's license may
24 not be transferred, sold, or purchased. A licensed owner or another person may not
25 lease, hypothecate, or borrow or loan money against an owner's license.

26 **Sec. 05.18.180. Suspension of license without notice or hearing; revocation**
27 **of license.** (a) The department may suspend a license issued to the owner of a card
28 room without notice or hearing if the department determines that the safety or health
29 of patrons or employees would be threatened by the continued operation of the card
30 room. The opportunity for a hearing shall be provided within a reasonable time
31 following a suspension.

1 (b) The suspension of a license under this section may remain in effect until
2 the department determines that the cause for suspension has been abated. The
3 department may revoke the license if the department determines that the owner has not
4 made satisfactory progress toward abating the hazard.

5 **Sec. 05.18.190. Department records.** All records pertaining to licenses,
6 applications, and activities authorized under this chapter are public records and may be
7 inspected and copied subject to AS 40.25.110 and 40.25.120.

8 **Article 3. Licenses.**

9 **Sec. 05.18.200. Owner's licenses.** (a) The department may issue to a person a
10 license to own a card room and conduct card games in a municipality that has a
11 municipal police department if the municipality has adopted an ordinance, ratified by
12 at least sixty percent of the municipal voters voting on the question, authorizing card
13 rooms and card games in that municipality. If the population of a municipality is less
14 than 50,000, only one owner's license may be issued in the municipality. If the
15 population of a municipality is 50,000 or more, the total number of owner's licenses
16 issued in the municipality may not exceed the total population of the municipality
17 divided by 50,000. The population of a municipality under this subsection shall be
18 determined by the most recent federal census information.

19 (b) A person applying for an owner's license under this chapter shall pay a
20 nonrefundable \$25,000 application fee to the department.

21 (c) An applicant shall submit the following on forms provided by the
22 department:

23 (1) the information required under AS 05.18.130;

24 (2) if the applicant is an individual, two sets of the individual's
25 fingerprints;

26 (3) if the applicant is not an individual, two sets of fingerprints for
27 each officer and director of the applicant.

28 (d) The department shall review an application for an owner's license under
29 this chapter and inform each applicant of the department's decision concerning the
30 issuance of an owner's license.

31 (e) The costs of investigation of an applicant for an owner's license under this

1 chapter shall be included in the application fee paid by the applicant.

2 (f) An applicant for an owner's license under this chapter shall pay all
3 additional costs that are associated with the investigation of the applicant that exceed
4 the portion of the application fee paid by the applicant that is assessed for the
5 investigation.

6 (g) The department may not issue an owner's license under this chapter to a
7 person if the person

8 (1) has been convicted of a felony under the laws of the state, the laws
9 of another state, or laws of the United States;

10 (2) has knowingly or intentionally submitted an application for a
11 license under this chapter that contains false information;

12 (3) has previously had their license to operate a gambling facility or
13 activity revoked in the State of Alaska or any other state or territory of the United
14 States or in any other jurisdiction;

15 (4) is an officer, a director, or a managerial employee of a person
16 described in (1), (2), or (3) of this subsection; or

17 (5) employs an individual described in (1), (2), (3), or (4) of this
18 subsection and that individual participates in the management or operation of card
19 operations authorized under this chapter.

20 **Sec. 05.18.210. Factors considered in granting owner's licenses.** (a) In
21 determining whether to grant an owner's license to an applicant, the department shall
22 consider

23 (1) the character, reputation, experience, and financial integrity of

24 (A) the applicant;

25 (B) a person that

26 (i) directly or indirectly controls the applicant; or

27 (ii) is directly or indirectly controlled by the applicant
28 or by a person that directly or indirectly controls the applicant;

29 (2) the card room or proposed card room;

30 (3) the good faith affirmative action plan of each applicant to recruit,
31 train, and upgrade minorities in all employment classifications;

1 (4) the financial ability of the applicant to purchase and maintain
2 adequate liability and casualty insurance;

3 (5) whether the applicant has adequate capitalization to provide and
4 maintain the card room for the duration of the license;

5 (6) the extent to which the applicant exceeds or meets other standards
6 adopted by the department by regulation.

7 (b) The department shall make an application for an owner's license available
8 for public inspection and copying, and shall invite public comment on an application
9 and consider all comments received in determining whether to grant the owner's
10 license.

11 (c) If there are more applicants for permits than there are permits available
12 under AS 05.18.200(a) in a municipality, in choosing among competing applicants the
13 department shall consider the recommendations of the city council or borough
14 assembly, and shall consider which applicant

15 (1) would most benefit players participating in card games; and

16 (2) would most benefit the local community.

17 **Sec. 05.18.220. Issuance of license; fee; bond.** (a) The department may issue
18 an owner's license to an eligible person if the person pays an initial license fee and
19 posts a bond as required in this section. The annual license fee is \$10,000 for each
20 card table. After a license has been issued, additional tables may be added for an initial
21 license fee of \$10,000 each; however, the full annual renewal fee for each table must
22 be paid on or before the anniversary of issuance of the owner's license, regardless of
23 when the table was added. The department may suspend or revoke a license if the
24 annual license fee is not paid in a timely fashion.

25 (b) A licensed owner must post a \$500,000 cash bond with the department at
26 least 60 days before the commencement of the construction of a card room or the
27 commencement of a card operation under the license, whichever is earlier.

28 (c) The principal of the bond shall be placed without restriction at the disposal
29 of the department, but interest earned on the principal shall inure to the benefit of the
30 licensee.

31 (d) The bond is subject to the approval of the department and must be payable

1 to the department for use by the department in satisfaction of the licensed owner's
2 financial obligations to the local community, the state, and other parties, as determined
3 by regulations of the department.

4 (e) If, following a hearing held after at least five days written notice, the
5 department determines that the amount of a licensed owner's bond is insufficient, the
6 licensed owner shall, on written demand of the department, file a new bond.

7 (f) The department may require a licensed owner to file a new bond with a
8 satisfactory surety in the same form and amount if

9 (1) liability on the old bond is discharged or reduced by judgment
10 rendered, payment made, or otherwise; or

11 (2) in the opinion of the department, a surety on the old bond becomes
12 unsatisfactory.

13 (g) If a new bond obtained under (e) or (f) of this section is unsatisfactory, the
14 department shall cancel the owner's license. If the new bond is satisfactorily furnished,
15 the department shall release, in writing, the surety on the old bond from any liability
16 accruing after the effective date of the new bond.

17 (h) The total and aggregate liability of the surety on a bond is limited to the
18 amount specified in the bond, and the continuous nature of the bond may not be
19 construed as allowing the liability of the surety under a bond to accumulate for each
20 successive approval period during which the bond is in force.

21 (i) A bond filed under this section is released 60 days after the owner's license
22 expires and a written request for release is submitted by the licensed owner.

23 **Sec. 05.18.230. Tournaments.** The holder of an owner's license for a card
24 room shall host a card tournament at least once each calendar quarter, with the gross
25 proceeds of the tournament to be distributed to a nonprofit educational institution or
26 group designated by the owner. An application for issuance or renewal of an owner's
27 license must include proposed dates for the tournaments, and specify the nonprofit
28 educational institution or group designated to benefit from each tournament. The
29 licensed owner shall notify the department of any change in the date or beneficiary of
30 a tournament. A nonprofit educational institution or group may be the designated
31 beneficiary of only one tournament each year under this section.

1 **Sec. 05.18.240. Term of a license.** An owner's initial license expires five years
2 after the effective date of the license.

3 **Sec. 05.18.250. Revocation of owner's license for delay.** The department may
4 revoke an owner's license if

5 (1) the licensee begins regular operations more than 12 months after
6 receiving the department's approval of the application for the license; and

7 (2) the department determines that the revocation of the license is in
8 the best interests of the state.

9 **Sec. 05.18.260. Renewal of owner's license; compliance investigations.** (a)
10 The owner's license may be renewed for an additional five-year period, if the bond
11 required under AS 05.18.220 remains in force, the annual license fees have been paid
12 in a timely fashion, and the requirements of this section are met.

13 (b) A licensed owner shall undergo a complete investigation by the
14 department every five years to determine whether the licensed owner remains in
15 compliance with this chapter.

16 (c) Notwithstanding (b) of this section, the department may investigate a
17 licensed owner at any time the department determines necessary to ensure that the
18 licensee remains in compliance with this chapter.

19 (d) The licensed owner shall bear the cost of an investigation or
20 reinvestigation of the licensed owner and an investigation resulting from a potential
21 transfer of ownership.

22 **Sec. 05.18.270. Schools for training occupational licensees.** This chapter
23 does not prohibit a licensed owner from operating a school for the training of
24 occupational licensees.

25 **Sec. 05.18.280. Nature of license.** An owner's license is a revocable privilege
26 granted by the state and is not a property right.

27 **Sec. 05.18.290. Occupations requiring license.** The department shall
28 determine the occupations related to card games and card rooms that require a license
29 under this chapter. The department shall require that an individual applying for an
30 occupational license may manage card operations for only one licensed owner.

31 **Sec. 05.18.300. Occupational license; requirements; fees; duration;**

1 **renewal; compliance investigations.** (a) The department may issue an occupational
2 license to an individual if

3 (1) the individual has applied for the occupational license and provided
4 the information required under AS 05.18.130;

5 (2) a nonrefundable application fee set by the department has been
6 paid on behalf of the applicant in accordance with (b) of this section;

7 (3) the department has determined that the applicant is eligible for an
8 occupational license; and

9 (4) an annual license fee set by the department has been paid on behalf
10 of the applicant in accordance with (b) of this section.

11 (b) A licensed owner or an applicant for an owner's license shall pay the
12 application fee of an individual applying for an occupational license to work at the
13 licensed owner's card operation and any renewal fees on behalf of an employee or
14 potential employee. The licensed owner or applicant for an owner's license may seek
15 reimbursement of the application fee or annual license fee from an employee who is
16 issued an occupational license by the department.

17 (c) A license issued under this section is valid for two years after the date of
18 issuance.

19 (d) Unless an occupational license is suspended, expires, or is revoked by the
20 department, the occupational license may be renewed biennially on the payment of a
21 license renewal fee by the licensed owner on behalf of the licensee, or by the licensee
22 in an amount established by the department and a determination by the department that
23 the licensee is in compliance with this chapter.

24 (e) The department may investigate the holder of an occupational license at
25 any time the department determines necessary to ensure that the licensee is in
26 compliance with this chapter.

27 (f) A licensed owner or an applicant for an owner's license shall pay the cost
28 of an investigation or reinvestigation by the department of a holder of an occupational
29 license who is employed by the licensed owner. The licensed owner or applicant for an
30 owner's license may seek reimbursement of the cost of an investigation or
31 reinvestigation from an employee who holds an occupational license.

1 **Sec. 05.18.310. Qualifications for occupational license.** The department may
2 not issue an occupational license to an individual unless the individual

3 (1) is at least 21 years of age;

4 (2) has not been convicted of a felony under the laws of this state, the
5 laws of another state, or the laws of the United States;

6 (3) has demonstrated a level of skill or knowledge that the department
7 determines is necessary to operate card games; and

8 (4) has met standards of character and fitness adopted by the
9 department for the holding of an occupational license.

10 **Sec. 05.18.320. Application for occupational license.** (a) An application for
11 an occupational license shall be made on forms prescribed by the department and
12 contain all information required by the department.

13 (b) An applicant for an occupational license shall provide the following
14 information in the application:

15 (1) a statement of whether the applicant has applied for or held any
16 other licenses related to card rooms, and, if so, the state or other licensing jurisdiction,
17 the date of application, the license number if a license was issued, or in the case of an
18 unsuccessful application, the reason the license was not issued;

19 (2) if the applicant has been licensed in another state under any other
20 name, the name under which the applicant was licensed in the other state;

21 (3) the applicant's age.

22 (c) An applicant for an occupational license shall submit with the application
23 two sets of the applicant's fingerprints. The applicant must submit the fingerprints on
24 forms provided by the department. The department shall charge each applicant the fee
25 set by the Department of Public Safety for state and national fingerprint record
26 searches.

27 **Sec. 05.18.330. Restrictions on issuance of occupational license.** The
28 department may refuse to issue an occupational license to an individual who

29 (1) is unqualified to perform the duties required of the applicant;

30 (2) does not disclose or states falsely any information required by the
31 application;

- 1 (3) has been found guilty of a violation of this chapter; or
2 (4) has not met standards of character and fitness adopted by the
3 department for the holding of an occupational license.

4 **Sec. 05.18.340. Suspension, revocation, or restriction of licenses.** The
5 department may suspend, revoke, or restrict an occupational licensee for

- 6 (1) a violation of this chapter;
7 (2) a cause that, if known to the department, would have disqualified
8 the applicant from receiving the occupational license;
9 (3) a default in the payment of an obligation or a debt due to the state;
10 or
11 (4) any other just cause.

12 **Sec. 05.18.350. Schools for training occupational licensees.** (a) This chapter
13 does not prohibit a licensed owner from entering into an agreement with a school
14 approved by the department for the training of an occupational licensee.

15 (b) Training offered by a school described in (a) of this section must be in
16 accordance with a written agreement between the licensed owner and the school and
17 approved by the department.

18 **Sec. 05.18.360. Training locations.** Training provided for occupational
19 licensees may be conducted in a card room or at a school with which a licensed owner
20 has entered into an agreement under this chapter.

21 **Article 4. Crimes.**

22 **Sec. 05.18.400. Crimes.** (a) A person commits a class A misdemeanor if the
23 person

- 24 (1) with criminal negligence makes a false statement on an application
25 submitted under this chapter;
26 (2) with criminal negligence owns or operates a card operation in
27 which wagering is conducted or is to be conducted in a manner other than the manner
28 required under this chapter;
29 (3) with criminal negligence permits a person under 21 years of age to
30 make a wager;
31 (4) recklessly aids, induces, or causes a person under 21 years of age

1 who is not an employee of the card room to enter or attempt to enter the card room; or
2 (5) knowingly enters or attempts to enter a card room and is not an
3 employee of the card room and is under 21 years of age.

4 (b) A person commits a class C felony if the person knowingly

5 (1) offers, promises, or gives anything of value or benefit

6 (A) to a person who is connected with the owner of a card
7 room, including an officer or an employee of a licensed owner or holder of an
8 occupational license; and

9 (B) under an agreement to influence or with the intent to
10 influence

11 (i) the actions of the person to whom the offer, promise,
12 or gift was made in order to affect or attempt to affect the outcome of a
13 card game; or

14 (ii) an official action of the department;

15 (2) solicits, accepts, or receives a promise of anything of value or
16 benefit

17 (A) while the person is connected with a card room, including
18 an officer or employee of a licensed owner or a holder of an occupational
19 license; and

20 (B) under an agreement to influence or with the intent to
21 influence the actions of the person to affect or attempt to affect the outcome of
22 a card game or an official action of the department;

23 (3) uses, or possesses with the intent to use, a device to assist in
24 projecting the outcome of a card game;

25 (4) cheats at a card game;

26 (5) manufactures, sells, or distributes any cards, chips, or device that is
27 intended to be used to violate this chapter;

28 (6) alters or misrepresents the outcome of a card game on which
29 wagers have been made after the outcome is made sure but before the outcome is
30 revealed to the players;

31 (7) places a bet on the outcome of a card game after acquiring

1 knowledge that is not available to all players and that concerns the outcome of the card
2 game that is the subject of the bet;

3 (8) aids a person in acquiring the knowledge described in (7) of this
4 subsection for the purpose of placing a bet contingent on the outcome of a card game;

5 (9) claims, collects, takes, or attempts to claim, collect, or take money
6 or anything of value in or from a card game with the intent to defraud or without
7 having made a wager contingent on winning a card game;

8 (10) claims, collects, or takes an amount of money or thing of value of
9 greater value than the amount won in a card game;

10 (11) uses or possesses counterfeit chips or tokens in or for use in a card
11 game;

12 (12) possesses a key or device designed for opening, entering, or
13 affecting the operation of a card game, a drop box, or an electronic or mechanical
14 device connected with the card game or removing coins, tokens, chips, or other
15 contents of a card game; this paragraph does not apply to a licensee or an employee of
16 a licensee acting in the course of the employee's employment;

17 (13) possesses materials intended to be used in a manner that violates
18 this chapter;

19 (14) knowingly owns or operates a card operation in which wagering is
20 conducted or is to be conducted in a manner other than the manner required under this
21 chapter.

22 (c) A person who violates (a) of this section is guilty of a class C felony if,
23 within the five years preceding the violation, the person has been previously convicted
24 under

25 (1) this section; or

26 (2) a law or ordinance of this or another jurisdiction with elements
27 substantially similar to this section.

28 **Sec. 05.18.410. Possession of cheating devices; presumption.** The possession
29 of more than one of the devices described in AS 05.18.400(b) as cheating devices
30 creates a rebuttable presumption that the possessor intended to use the devices for
31 cheating.

Article 5. General Provisions.

Sec. 05.18.500. State gaming fund. There is created in the general fund the state gaming fund. The state gaming fund consists of all revenue received from card room activities under this chapter and all other money credited or transferred to the fund from another fund or source.

Sec. 05.18.900. Definitions. (a) In this chapter,

(1) "card game" means a nonbanking card game listed in AS 05.18.010(b);

(2) "card operation" means the conduct of card games in a licensed card room;

(3) "card room" means a structure in which card games authorized under this chapter are conducted by an owner licensed under this chapter;

(4) "cheat" means to alter the selection of criteria that determine the result of a card game or the amount or frequency of payment in a card game;

(5) "department" means the Department of Revenue;

(6) "gross receipts" means the total amount of money exchanged for the purchase of chips or tokens by card room patrons;

(7) "license" means a license issued by the department under this chapter;

(8) "licensed owner" means a person that owns a card room who is licensed under this chapter;

(9) "licensee" means a person holding a license issued under this chapter;

(10) "owner's license" means a license issued under this chapter that allows a person to own and operate a card room.

(b) In this chapter, the terms "intentionally," "knowingly," "recklessly," and "with criminal negligence" have the meanings given in AS 11.81.900(a).

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

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

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someone else will receive something of value in the event of a certain outcome;
"gambling" does not include

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

(B) playing an amusement device that

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

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

(C) an activity authorized by the Department of Revenue under

AS 05.15 or AS 05.18;

* **Sec. 4.** AS 44.64.030(a)(2) is amended to read:

(2) AS 05.15 and AS 05.18 (charitable gaming; card rooms);



Alaska State Legislature

Please enter into the record my testimony to the Senate Judiciary
committee name

Committee on HB 272 Card Rooms & Operations, dated 4-6-2006
bill # / subject public hearing date

I am in favor of house bill (HB272)

Signed:

Laura Schenkels
Testifier

ly
Representing (optional)

721 W 71st Ave Anchorage AK 99518
Address

907-344-6928
Phone number



Alaska State Legislature

Please enter into the record my testimony to the Senate Judiciary
committee name

Committee on HB 272 Card Rooms & Operations, dated 4-6-2006
bill # / subject public hearing date

*I am strongly in favor of
 House Bill 272.*

Signed: *Herald A. Schaubals*
Testifier

Representing (optional)
721 W. 71st ANCHORAGE AK.
Address

(907) 349-6928
Phone number



Alaska State Legislature

Please enter into the record my testimony to the Senate Judiciary
committee name

Committee on HB 272 Card Rooms & Operations, dated 4-6-2006
bill # / subject public hearing date

*I Support This HB 272 Card Rooms +
Operations*

Signed: *[Signature]*
Testifier

Representing (optional)

1200 Post Rd

Anchorage AK 99501
Address

258 1164
Phone number

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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(907) 465-3867 or 465-2450
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Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 3, 2006

SUBJECT: CSHB 272(FIN) am (Work Order No. 24-LS0916\Y.A)

TO: Representative Pete Kott
Representative Woodie Salmon
Representative Max Gruenberg
Representative Bruce Weyhrauch
Senator Ralph Seekins, Chair, Senate Judiciary Committee

FROM: Kathryn L. Kurtz 
Legislative Counsel

The purpose of this memo is to alert you to a discrepancy between the title and the text of HB 272, the card room bill, in its current version. The bill title¹ includes a clause about requiring a community to vote to allow card rooms before a card room owner's license can be issued. The bill, however, does not include a vote requirement.

This situation is a result of two floor amendments. Amendment no. 3 added a clause to sec. 05.18.200(a) requiring voter ratification of a municipal ordinance permitting card rooms before the Department of Revenue can issue a card room owner's license in that municipality, and made a corresponding addition to the bill title. Three days later, the House adopted amendment no. 5, which deleted sec. 05.18.200(a) and replaced it with text permitting issuance of an owner's license in a municipality with a population of less than 30,000. Amendment no. 5 did not change the title.

A bill title that refers to matter that does not exist in the bill is defective in that it fails to adequately describe the contents of the bill as required under Art. II, sec. 13, Constitution of the State of Alaska. The title of the House - passed CSHB 272(FIN) am does not give reasonable notice of the subject of the bill, rather, it misleads the reader into thinking the bill contains a provision which it does not.

Generally, the Uniform Rules prohibit title changes in the second house. However, there is an exception for clerical and technical changes.² According to the Manual of

¹ "An Act relating to card rooms and card operations, and permitting issuance of a license to own a card room and conduct card games in a municipality of the state if the municipality has adopted an ordinance, ratified by a majority of the municipal voters voting on the question, authorizing card rooms and card games in that municipality".

² Rule 35 provides: "A motion or proposition on a subject that requires a change in the title of the bill as enacted in the house of origin, other than a clerical or technical change,

January 3, 2006

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Legislative Drafting, "[t]echnical title changes include those that are necessary to correct a title that was defective when the bill passed the first house; in such cases, the corrected title should be written as narrowly as possible so that the technical title change does not become an excuse for broad changes in the second house." Manual at 11.

Precisely such a technical title change is required here to conform the title of the bill to the subject matter of the bill. We recommend deleting the phrase ", and permitting issuance of a license to own a card room and conduct card games in a municipality of the state if the municipality has adopted an ordinance, ratified by a majority of the municipal voters voting on the question, authorizing card rooms and card games in that municipality" from the title to resolve this issue in the next version of the bill that the Senate considers.

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is not in order in the second house." Similarly, Rule 41(b) provides that "[a]n amendment to a bill introduced in the other house is not in order if the amendment requires a change of the bill title other than a clerical or technical change."

Justiciary

We, the future adults of Alaska, are opposed to House Bill 272, which would permit issuance of a license to own a card room and conduct card games. We don't feel that gambling of any kind would help our community as much as it would hurt it. We don't want to have any measure that would open the door to legalized gambling in Alaska. We urge you to help improve our future rather than damage it.

(signature)	(age)
Nate Williams	16
Chay Johnson	16
Jordan Strout	15
Cecid Lynn	16
Josh Roestenburg	14
Ellice Hackley	15
Grace Hopkin	14
Clare Hopkin	17
Aimee Halliger	16
Anna Gusswall	17
Tom Pitman III	16
Greg Coy Jr.	16
Bekkah Mille	16
Ryan Parker	15
Brian	15
Fanniem McBack	15
Justin Litchfield	17
Faith Caporas	17
David Meyer	15
Justin	16
Reley Anderson	16
Ashley Hauger	16 15

Kimberly Hester	15
Jeth D. King	17
Lauren Johnson	17
Kameron P. King	15
Alex King	16
Nicole Goodman	16
Josh Miller	16
Cori Peterson	16
Scott Linton	16
Bryan Gully	17
Tommy Heath	15
Barbara Cox	17
Amanda Vandenberg	18
Caleb Phillips	18
Gabe Coiro	16
Zan Otto	14
Eugene Segour (Eugenie Segour)	14
Christina Fidler	15
David Gooden	17
Barbara King	15
Kevin King	14
Tammie Heath	17
BURTON WRIGHT	17
Lab Schneider	16
Spencer King	16
Janice Miller	16
Megan Fisher	17

IT'S POKER, NOT GAMBLING

By Roy Cooke

An awful lot of what goes on in the world is about image. The casino industry has over the past decade engaged in a pretty successful image campaign, encouraging the use of the word gaming as opposed to gambling in order to make the business seem more acceptable. Wall Street and the media have pretty much bought into this semantic manipulation, and tend to describe the industry accordingly.

I have often referred to our poker world as being part of the gambling community, in part because poker rooms tend to be located in gambling establishments. In addition, many gamblers also play poker. Furthermore, many poker players treat the game as a gambling experience and approach it from a perspective not significantly different from the way they approach gambling games. The fundamental unit of both poker and gambling is the wager, a sum of money risked with the outcome determined by an event or series of events in which chance is one of the variables. (In most gambling, chance is the only variable.) These are all things poker has in common with gambling.

Regardless of these commonalities, poker is far more different from gambling than it is similar. They are mathematically, pragmatically, historically, culturally, socially, legally, and, in my opinion, morally differentiated. In the past, this has been for the most part a matter of small consequence, a subject for discussion and debate around the bar, perhaps, but not really important. Poker players explained to their wives and mothers that what they did wasn't really gambling, but a game of skill. Times have changed, however, and the distinction between poker and gambling has become very important to the current and future health of the game.

Internet poker grew by more than 600 percent, both in number of players and volume of money bet, between the end of 2002 and the end of 2003. If poker is lumped with Internet gambling, it now constitutes 10 percent of the online gaming market. After years of sluggish performance and a static supply of players and money, poker is presently enjoying incredible popularity, fueled by the Internet, including Chris MoneyMaker's incredible parlay of \$40 on an Internet cardroom site into the World Series of Poker title and its \$2.5 million first-place prize. The popularity of TV poker, resulting from producer Steve Lipscomb's introduction of the lipstick camera to show players' holecards, has also been a major factor in the current healthy state of poker. The poker world has never seen anything like this, far surpassing the growth in the game when California opened up poker in the early '90s. But this growth is gravely threatened.

There are bills pending in the U.S. House and Senate designed to disembowel Internet gambling. One in particular, introduced by Sen. Jon Kyl, R-Ariz., is very close to coming to the floor and enjoys bipartisan support. The U.S. Justice Department, having plenty of excess resources not allocated to the war on terrorism, is using a 1960s-era law that was designed to inhibit illegal bookies to pressure financial institutions and media who do business with Internet gambling sites, and is promising prosecutions. Fearing competition, many stalwarts of the brick-and-mortar "gaming" industry have, in a strange bedfellows kind of partnership, joined with religious and "family values" groups to lobby for restrictions or prohibition of all forms of Internet wagering, including poker.

If poker is defined as substantially different from gambling (as contemplated by existing and proposed laws), the Internet version of the game that has been the engine driving growth can perhaps be insulated from the barrage of present and pending attacks. This approach is somewhat

complicated by the reality that some online poker sites and some Internet gambling sites have related ownerships. For them, any regulation of either Internet gambling or poker is a loss, and they may not be happy about the idea of treating the two industries separately. But the best interest of poker is clearly served by legally bifurcating the two, and poker is what matters to me.

Personally, I think that while government regulation of both poker and gambling on the Internet may perhaps be appropriate to protect players from the unscrupulous, prohibition of either is wrong. There is much sentiment in America that government needs to tend to its own business, stick to the big issues like war and health care, and stay the hell out of people's lives. Both the libertarians of the right and the civil libertarians of the left tend to support that philosophy. But as a member of the poker community, and one associated with an Internet poker site, I believe that if the government elects to choose regulation of wagering activity on the Internet, poker's best defense is to make the case that it is not the same as gambling and should not be treated by the law in the same way. The most significant consideration is that poker and gambling are indeed different animals.

The biggest distinction between poker and gambling is that in pretty much all gambling, you are playing against the house. This can be particularly problematic when you are playing a computerized game against the people who control the program. If you win, the house loses. If the house wins, you lose. The games favor the house. In poker, the house has no interest in the outcome, and is an impartial provider of services-for-a-fee, a forum for the players to compete equally against each other.

Another major difference between poker and gambling is that the rules of poker accord every player a statistically equal chance to win, but the rules of gambling games all give the house a definite advantage against the player, which over time is inexorable and inevitable. In essence, poker is fair, gambling is not.

The mechanics of poker and gambling are different in a fundamental way. In gambling, you post a wager, after which an event occurs over which you have little or no control, and which determines whether you win or lose. At the point where you risk your money, you are always an underdog. In poker, you receive your cards with an equal chance against your opponents, and then make decisions of whether or not to wager or match wagers made by other players as the hand progresses.

Poker is a game of skill. It is a contest of abilities, more akin to bridge or chess than it is to gambling, in that more-talented players will prevail against less-talented players. Chance can and will affect short-term results, but skill separates winners from losers over time. The claims of a few

purported card counters and system players notwithstanding, skill can only mitigate your losses when you gamble, and chance rather than skill is the principal determining factor in your results. A California court said in 1938: "A game is not to be regarded as one of skill merely because that element enters into the result in some degree, or as one of chance solely because chance is a factor in producing the result. The test of the character of a game or scheme as one of chance or skill is, which of these factors is dominant in determining the result." People v. Settles, 29 Ca App Supp 2d 781, 78 P 2d 274 (Appellate Department, Superior Court, County of Los Angeles, 1938).

There are other arguments that favor poker over gambling that are perhaps intangible but no less real than the ones mentioned above. Poker is a part of the fabric of America, woven into our history from Ulysses S. Grant playing with his fellow junior officers in the Mexican-American War through Harry Truman being interrupted at his poker game to learn that FDR had died and

Harry had become president. From Mississippi riverboats to the California Gold Rush to the foxholes of Ardennes, the Chosin Reservoir, and Khe Sang, poker is part of our cultural makeup, our frontier heritage, our individualistic mentality. Presidents Harding, Coolidge, Roosevelt, Eisenhower, Nixon, and Johnson all frequently played poker. In some state capitols, more business of governing has been done at poker tables than in committee.

Beyond being historic, poker much more than gambling is ubiquitous. Kitchen-table poker and weekly poker night are staples of our society. In 1968, a report estimated that 50 million Americans had played some poker. That number has surely grown in the caddy shack, the bowling alley, or after Supreme Court hearings — and of course on the Internet and in hundreds of public cardrooms around the country that didn't exist back in those days. You find poker in hundreds of movies, in the officers lounge of the Starship Enterprise, in the Travis Magee detective novels. And, of course, it's all over cable TV.

Poker is democratic. It matters whether you have the money to play, but the game doesn't care if you're black, white, Asian, Hispanic, male, female, gay, in a wheelchair, or even an obnoxious jerk. You sit down with your buy-in at the green felt and you have all the rights, privileges, and the same chance to win as everybody else at the table. You'll never get to play a pickup game against Michael Jordan or a round of golf against Tiger, or tear up the track against Matt Kenseth, but you can plop your buy-in down and take on Doyle Brunson or Howard Lederer. Where else in America can you parlay a \$40 buy-in into a shot at \$2.5 million with grit, skill, and a little luck? (And it's not the kind of luck where the odds are rigged against you, I might add.)

Fair. Historic. Ubiquitous. Democratic. It's mighty hard for gambling to make such a case for itself. But, then again, there's no reason it should. Poker is, after all, a different thing.

Perhaps the weightiest relevant distinction between poker and gambling is the legal recognition by many jurisdictions that they are in fact different. A large majority of states prohibit gambling, but at least 37 states have some form of legal poker. California, for example, prohibits games played against the house, but permits poker. Florida has a provision against gambling in its state constitution, but has by affirmative act of its legislature distinguished and permitted poker on a regulated basis. Other examples abound.

I fervently hope the Feds will not further pursue restriction of either gambling or poker on the Internet. I hope the lobbyists who are making the case on behalf of the online casinos prevail and manage to shoot the whole thing down. But you can't take hopes to the bank. To wait for the shoe to drop would be foolhardy and naive. To preserve the flow of new players and new money into poker rooms around the country, the industry must band together and properly define itself as something different and apart from the gambling business.

And aside from the legal issues, it wouldn't hurt our image a bit.

HB

308

SENATE COMMITTEE REPORT

DATE: 4/19/06

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered CS FOR HOUSE BILL NO. 308(JUD) am

HB 308 CALLER ID HACKERS

"An Act relating to false caller identification."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title v./ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	X			
<i>[Signature]</i>	X			
<i>[Signature]</i>	X			
<i>[Signature]</i>	X			
CHAIR: <i>[Signature]</i>	✓			

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District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
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SPONSOR STATEMENT

CSHB308

An Act relating to false caller identification

Warning: Do not trust your telephone caller ID. The name and number you see may be false. Both private individuals and commercial spoofers can now cause false caller identification to be displayed on your caller ID screen. False caller identification is more than pranks, or annoyance. The power to create serious mischief with Caller ID spoofing technology is almost unlimited and it can facilitate fraud, and can be potentially dangerous.

For example, some financial institutions use caller ID to authenticate telephone requests for personal account information. With a few personal tidbits and your spoofed number, an impostor could access your bank or credit card account. Scam artists who appear to be phoning from a reputable agency can defraud their victims with ease. There's potential for hoax emergency calls with false caller ID to law enforcement or the fire department. Predators could use caller ID spoofing to commit crime against women and children.

Anyone with sufficient computer and telephonic skills can spoof telephone caller identification systems. In fact an entire telephone spoofing industry has emerged, and is growing daily. With one service for the price of a ten-dollar calling card anyone can change what someone sees on their caller ID display and even change their voice. These spoofing services can work with mobile phones, landlines as well as telephone services that are routed via the Internet.

CSHB308 is a simple measure, that doesn't get into the technological complexities of how the spoofing gets to the display on your Caller ID. If you insert false Caller ID information into a Caller ID system a crime has been committed.

Alaska should take whatever action possible within its jurisdiction to stem the abuse of "Caller ID Spoofing." CSHB-308 will make it class B misdemeanor for any person who inserts false information into a Caller ID system, except for legitimate law enforcement, intelligence or security agencies.

24-LS0779\F
Bannister
1/25/06

CS FOR HOUSE BILL NO. 308()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES LYNN, Dahlstrom, Wilson, Gatto, Neuman, Kerttula, Chenault, Anderson, Gardner, LeDoux, Olson, Croft, Elkins, McGuire

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to false caller identification."

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

3 * Section 1. AS 45.45 is amended by adding a new section to read:

4 Sec. 45.45.940. False caller identification. (a) A person may not knowingly
5 insert false information into a caller identification system.

6 (b) This section does not apply to law enforcement agencies of the federal
7 government, the state government, or a municipality.

8 (c) A person who knowingly inserts false information into a caller
9 identification system is guilty of a class B misdemeanor.

10 (d) In this section,

11 (1) "caller" means a person who places a call by a telephone or over a
12 telephone line, even if the person begins the call on a computer;

13 (2) "caller identification system" means a listing of a caller's name,
14 telephone number, or name and telephone number that is shown to a recipient of a call
15 when the recipient answers;

1 (3) "insert" means insert by voice communication, by written
2 communication, or by typing into a computer;

3 (4) "knowingly" has the meaning given in AS 11.81.900.

4 * Sec. 2. AS 45.50.471(b) is amended by adding a new paragraph to read:

5 (5) violating AS 45.45.940 (false caller identification).

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 308(JUD)
 (H) Publish Date: 3/30/06

Revision Date/Time (Note if correction): 3/21/06 9:06 a.m. Dept. Affected: Administration
 Title: An Act relating to false caller identification RDU: Legal and Advocacy Services
 Component: Public Defender Agency
 Sponsor: Rep. Lynn
 Requester: (H) JUD Component No.: 1631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	()	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would create the new crime of False Caller Identification for inserting false information into a caller identification system. False Caller Identification would be a class B misdemeanor.

This legislation is not expected to have a fiscal impact on the Public Defender Agency.

Prepared by: Quinlan Steiner, Director Phone: (907) 334-4414
 Division: Public Defender Agency Date/Time: 3/21/06 9.06 a.m.
 Approved by: Mike Tibbles, Deputy Commissioner Date: 3/21/2006
 Agency: Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 308(JUD)
 (H) Publish Date: 3/30/06

Revision Date/Time (Note if correction): _____ Dept. Affected _____
 Title: Caller ID Hackers RDU: Alaska Court System
 Component: Trial Courts
 Sponsor: Representative Lynn
 Requester: _____ Component No: _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of HB 308.

Prepared by: Doug Wooliver, Administrative Attorney Phone: 463-4750
 Division: Alaska Court System Date/Time: 3/17/06 @ 10 30 am
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date: 3/17/2006
 Agency: Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 308(JUD)
 (H) Publish Date: 3/30/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title: "An Act relating to false caller identification" RDU: Alaska State Troopers
 Component: AST Detachments
 Sponsor: Representative Lynn
 Requester: House Judiciary Committee Component No: 2325

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This proposed legislation will have no fiscal impact on the Department of Public Safety

Prepared by: Lieutenant James Helgoe Phone: 907-269-4532
 Division: Alaska State Troopers Date/Time: 3/17/06 1:54 PM
 Approved by: Commissioner William Tandeske Date: 3/17/2006
 Agency: Department of Public Safety

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A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" AlaskaDistrict31.blogspot.com

Sectional Analysis for CSHB 308 (JUD): "Caller ID spoofing," An Act relating to false caller identification.

Released: March 31, 2006

Dirk Moffatt, staff for Rep. Bob Lynn

Section 1. Adds a new section, AS 45.45.940, creating the crime of false caller identification for a person who knowingly inserts false information into a caller identification system. The crime would be a class B misdemeanor.

Section 2. Amends AS 45.50.471 to add the new violation of false caller identification to the list of unlawful acts and practices under this section.

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Changes from the original version of HB308 to CSHB 308 (JUD): **"Caller ID spoofing"** Released: April 19, 2006

On March 29, 2006, the House Judiciary Committee passed a committee substitute to HB308 by adding page 1, lines 6 through 9 of CSHB 308 (JUD):

- (b) This section does not apply to
- (1) law enforcement agencies of the federal government, the state government, or a municipality; or
 - (2) intelligence or security agencies of the federal government.

On March 18, 2006 the State House Passed CSHB 308 (JUD) with the following technical amendment on page 2, line 4 by Deleting the word "typing" and inserting the phrase "otherwise entering it" of CSHB 308 (JUD) AM.

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Technology facilitates Caller ID spoofing AP Associated Press



Rep. Tim Murphy, R-Penn., picks up his telephone handset in his office in the Cannon House Office building on Capitol Hill, Wednesday, March 1, 2006 in Washington. Last fall, Murphy's office started getting phone calls from constituents who complained about receiving recorded phone messages that bad-mouthed Murphy. The constituents were especially upset that the messages appeared to come from the congressman's own office. At least, that's what Caller ID said. In the last few years, Caller ID spoofing has become much easier. Millions of people have Internet telephone equipment that can be set to make any number appear on a Caller ID system. (AP Photo/Pablo Martinez Monsivais)

By Peter Svensson, AP Technology Writer | March 1, 2006

NEW YORK -- Last fall, U.S. Rep. Tim Murphy's office started getting phone calls from constituents who complained about receiving recorded phone messages that bad-mouthed Murphy.

The constituents were especially upset that the messages appeared to come from the congressman's own office. At least, that's what Caller ID said.

"People thought we were making the calls," Murphy said.

The calls, which the Pennsylvania Republican estimated in the thousands, were apparently placed with fake Caller ID. That has been possible for a long time, but it generally required special hardware and technical savvy.

In the last few years, Caller ID spoofing has become much easier. Millions of people have Internet telephone equipment that can be set

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to make any number appear on a Caller ID system. And several Web sites have sprung up to provide Caller ID spoofing services, eliminating the need for any special hardware.

For instance, [Spooftel.com](#) sells a virtual "calling card" for \$10 that provides 60 minutes of talk time. The user dials a toll-free number, then keys in the destination number and the Caller ID number to display. The service also provides optional voice scrambling, to make the caller sound like someone of the opposite sex.

Caller ID spoofing appears to be legal, though many of its uses are not. The Federal Communications Commission has never investigated the issue, spokeswoman Rosemary Kimball said.

Lance James, chief scientist at security company Secure Science Corp., said Caller ID spoofing Web sites are used by people who buy stolen credit card numbers. They will call a service such as Western Union, setting Caller ID to appear to originate from the card holder's home, and use the credit card number to order cash transfers that they then pick up.

Exposing a similar vulnerability, Caller ID is used by credit-card companies to authenticate newly issued cards. The recipients are generally asked to call from their home phones to activate their cards. Some card companies maintain, however, that they use additional means to confirm new cards. And caller ID spoofing may not work for calls to 1-800 numbers, where the hardware can identify calls using a separate technology.

Two spoofing services contacted by The Associated Press, [Spooftel.com](#) and [Telespoof.com](#), did not return messages seeking comment about their business. However, some of the five or so Web sites in the business don't appear to be completely unscrupulous. James said he had been hired by a few of them, which he would not name, to help stop the Western Union scam.

Also, both [Spooftel.com](#) and [Spooftel.com](#) say they will surrender call logs to authorities in response to subpoenas. [Spooftel.com's](#) site says the service is "intended for entertainment purposes only."

Telephone companies can trace calls to their origin regardless of the Caller ID information they carry, but the process is laborious, especially since a call may be carried by several companies before reaching its destination. The fragmented nature of the telephone network also makes it technically difficult for the carriers to prevent spoofing.

At [Verizon Communications Inc.](#), security manager John Lewandowski said the company often gets complaints about fake Caller ID after a telemarketer has spoofed his number to cover his tracks.

In a typical case, someone will be jarred in the middle of the night by repeated telemarketing calls. He checks Caller ID, calls the number -- which is false -- and starts "cussing out" the person at the other end of the line, Lewandowski said.

"And that poor guy was asleep. It wasn't him at all," Lewandowski said. The company investigates and tracks down the callers, he added.

Apart from fraud and telemarketing, Caller ID spoofing can be used

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for pranks and spying.

In one case, SWAT teams surrounded a building in New Brunswick, N.J., last year after police received a call from a woman who said she was being held hostage in an apartment. Caller ID was spoofed to appear to come from the apartment.

It's also easy to break into a cell phone voice mailbox using spoofing, because many systems are set to automatically grant entry to calls from the owner of the account. Stopping that requires setting a PIN code or password for the mailbox.

In a slightly more complicated fashion, spoofing was part of the technique used by a hacker who broke into Paris Hilton's cell-phone voicemail in 2004, according to security consultant Kevin Mitnick, who said he was citing hacking sources. The hacker apparently called the celebrity socialite posing as a technical-support person from the carrier, and lured the password from her.

That is known as a "pretext" call -- someone poses on the phone as a customer, employee or even a regulator to obtain personal information from companies and individuals. And indeed, while [Spooftcard.com](#) contends that its service is for "entertainment purposes," it also notes that "Private Investigators will find Caller ID spoofing valuable for pretext calls."

Robert Douglas, a privacy consultant in Colorado, testified before Congress last month that pretexters trade tips on finding the best spoofing services.

Pretexters generally claim their practices are legal, as long as they don't involve financial information. A bill introduced in the Senate would make it illegal to pose as someone else to obtain phone records, or to buy records from phone company insiders.

Douglas would like legislation against Caller ID spoofing as well, but there appears to be little interest in Washington.

"If I'm paying extra for Caller ID, which I do ... there should be some ability on my part to believe what I'm getting," Douglas said.

In Alaska, State Representative Bob Lynn has introduced a bill to make spoofing a misdemeanor. "False caller identification is more serious than pranks, or the annoyance of intrusive telemarketing," Lynn writes. "It facilitates fraud, and can be potentially deadly."

However, it is unclear what effect the bill would have. As Lynn notes, Caller ID is a federal issue. ■

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It's not clear if Murphy's criticism figured in Barton's introduction of a new FCC-focused bill explicitly outlawing spoofing; Murphy couldn't be reached for comment. Engel is the Barton bill's lead Democratic sponsor. A cosponsor of the original bill with Engel, Rep. Wilson (R-N.M.), isn't listed as a Barton bill cosponsor; her office couldn't be reached for comment. Barton's spokesman said that for "some reasons of technicality, [spoofing] really needs to be addressed by the FCC" instead of the FTC.

The FCC is a better agency to handle spoofing rules. Electronic Privacy Information Center Dir.-West Coast Chris Hoofnagle told us. With FTC jurisdiction, "it would have suffered from all sorts of blind spots -- common carriers... are generally exempt from FTC rules," Hoofnagle said. But the Barton bill's lack of an intent requirement "will create major problems for many," he said: "Many businesses and government do not transmit their direct line -- they 'spoof' the institutional number. Are they on the hook under this law?" The bill should make clear that intent to deceive is the clincher, Hoofnagle said. -- *Greg Piper*

'Percolates Up'

WildBlue Jumps Digital Gap without U.S. Funds; State Interest Up

GREENWOOD VILLAGE, Colo. -- Since setting up its first customer in Strasburg, Colo. nearly a year ago, NRTC-backed satellite broadband provider WildBlue has been bridging the digital divide in rural communities across the U.S. without govt. aid. The firm's main market lies beyond the reach of terrestrial broadband - particularly in farming and ranching communities targeted by WildBlue advertising the past year in agriculture magazines and local radio spots.

WildBlue's service might seem a natural means of meeting the President's broadband pledge and FCC rural connectivity goals. But the firm doesn't qualify for federal USDA grants, and state support has been stirred only by word of mouth, WildBlue Sr. Vp & Gen. Counsel David Brown told us in an interview. Faster than dial-up but slower than wired options, the least expensive WildBlue access is \$49.95 a month.

The U.S. has about \$2 billion in USDA Rural Utilities Services loans to spend on rural broadband deployment through 2007 (CD Sept 20 p6). Satellite broadband is touted as an ideal rural broadband solution, but "it doesn't really fit the rules around the Department of Agriculture money," said Brown. The USDA funds are "really meant for small local telcos as opposed to somebody that can distribute nationally," Brown said.

The USDA rules, written in the early 1990s, "didn't have satellite in mind," Brown said. If a broadband provider can distribute service nationally, including regions already wired with DSL or cable, "then you don't qualify for the money," he said. WildBlue relies on the NRTC for political maneuvering, and the cooperative "has been leading the charge for the USDA RUS rules to be written in a more technologically neutral way," Brown said.

If WildBlue is looking for govt. support in bridging the digital divide, it might have more luck at the state level. Several states are "very interested in the service," thanks to WildBlue's ability to get broadband to rural residents, WildBlue Pres. & COO Kenneth Carroll said: "They're very interested in working with us to develop programs for rural constituents to provide the service where cable, DSL or fixed wireless isn't available."

So far state interest is from the bottom up, he said: "Somebody in the state government got the service, or their parents got the service out on their farm or ranch, and it percolates up. Then the state gets interested and says they're going to look at using you to complete the blueprint for service to all constituents."

Tribal connectivity should be included in that vision, Carroll said. "It's an important area," but one that WildBlue hasn't "specifically engaged in," he said. NRTC members and retailers WildBlue works with serve tribal lands, he said: "I don't have specifics, but we are very interested in being able to service those communities."

Angelos proposed to merge MASN with Comcast's regional sports network (RSN). "We're prepared to talk about a potential amalgamation of the 2 systems under an appropriate arrangement," said Angelos. "We're prepared to work at it, and come back and report to your committee our progress." Earlier in the hearing, McCollum said Cox would rather carry one RSN. Cohen echoed that sentiment, telling reporters: "Everyone who is in this business realizes that the best result is to have a single sports network in the same market." Several hurdles stand in the way of a deal with Angelos, including price and MASN's ownership structure, he told the panel.

Comcast wouldn't agree to compulsory arbitration, proposed by Committee Chmn. Tom Davis (R-Va.). That tactic helped resolve a similar dispute in N.Y. between Cablevision and the YES Network, said Davis. Cohen balked: "Compulsory arbitration is not something we would be interested in... We have to run our business and we really can't turn it over to a 3rd party." -- *Josh Wein*

Action Soon After April Break

Barton Bill Would Ban Deceptive Caller ID, Give FCC Jurisdiction

"Spoofing" caller ID information would be outlawed under a bill introduced by House Commerce Committee Chmn. Barton (R-Tex.) Thurs. The bill would give the FCC power to enforce the bill's provisions within 6 months of enactment. Spoofing refers to services, mostly by Web-based firms, that let a user create phony phone numbers or other data displayed by a call recipient's caller ID. Phone numbers for Republican House offices were used on calls criticizing the members to their constituents. The same was also done with Democratic Party office numbers.

Barton is making the issue a high priority, a Commerce Committee spokesman told us: "I understand we're going to get this in short order" after the Easter recess.

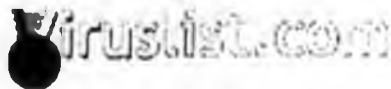
The bill would apply to traditional and VoIP calls in which the caller causes "any caller identification service to transmit misleading or inaccurate caller identification information." There's an exception for law enforcement. Not all VoIP services are covered; the bill defines VoIP service as that provided "for a fee," excluding free services like Skype's PC-to-PC calling and similar services through instant-messaging programs that don't touch the PSTN. But paid VoIP with "capability" to interconnect with the PSTN -- regardless of whether a particular call made through VoIP actually interconnects -- is covered.

The feds aren't the first to study spoofing services. Fla. Attorney Gen. Charlie Crist (R) in March pursued several sites through their hosting service, GoDaddy.com. Crist asked GoDaddy to provide business record data on SpooCom.com, SpooTech.com, SpooTel.com, SpooCard.com and TrickTel.

Spoofing services emphasize their utility especially for inquiries into illegal activity. As other sites do, SpooCard.com says its services are aimed at law enforcement, private investigators, lawyers and insurance agents but aren't limited to their use. The website says private investigators will "find spoofing valuable for pretext calls" -- a loaded term given approval of bills criminalizing pretexting -- impersonation of another's identity to acquire personal records -- in the House and Senate Commerce and Judiciary committees (CD March 31 p2, March 9 p2).

Barton's bill follows one introduced a day earlier by Rep. Engel (D-N.Y.), which simply gave the FTC jurisdiction to classify spoofing as an "unfair or deceptive act." Engel's bill didn't mention the FCC. The FTC provision irked Rep. Murphy (R-Pa.), whose office phone number was among those appropriated by a spoofer in calls to constituents that made critical comments, *Wired News* and *National Review* reported. Murphy, who initially worked with Engel on the bill, came to see the FTC enforcement as too weak, investigation too slow, and likely penalties for violation too small.

FTC = Federal Trade Commission.


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Caller ID faking targeted by FCC

By Konstantin Kornakov | Mar 07 2006 09:18 GMT | [comment](#)

The service is simple – you call from a number, but the person you call sees a totally different number in the Caller ID display. It sounds innocent enough, but this kind of service has caused the US Federal Communications Commission to initiate an investigation. The problem with Caller ID spoofing is that while it can be used to simply play a joke on someone, it can also facilitate fraud and other criminal activities.

The possibility to fake a Caller ID has existed for a long time in telecoms networks. This is largely due to their disjointed nature with many different companies operating different parts of the telephone line. However, the advent of VoIP services has made it increasingly easy to carry out spoofing without specialized technical knowledge or access to dedicated hardware. The problem lies with less than stringent VoIP operators, which allow calls to be placed using almost anything in terms of data sent as the caller's ID. Hackers have taken advantage of this flaw and have set up several services, which allow users to purchase pre-paid call time. All the user has to do is dial the number he wants to call and the number he wants displayed as his Caller ID.

Private investigators have flocked to this service in droves, since it gives them the opportunity to pose as other people (according to caller ID information) while on the phone. Some services even offer to change a caller's voice over the line and claim that business professionals can make their calls truly anonymous with Caller ID spoofing. Congressman Tim Murphy, who himself fell victim to this technology, recently put forward one example of the potentially dangerous use of Caller ID spoofing. Last year some of his constituents started receiving calls with pre-recorded messages which abused him. However, the caller ID display showed that these calls came from his office. Another use of this technology involves money-wiring services that use Caller ID for identification purposes, allowing fraudulent money transfers. Fraudsters posing as their victims through the use of this technology have also extracted private consumer information from companies.

It seems that the criminal use of this technology has finally attracted the attention of the authorities. It remains to be seen whether this will lead to better protection for consumers in the future. Caller ID has proved to be a widely-used service for personal authentication, but has also been shown to be extremely vulnerable and unprotected.

Source:

- MSNBC
- Wired News



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Scam Artists Dial for Dollars on Internet Phones

Sun Mar 20, 2005 09:40 AM ET

By Andy Sullivan

WASHINGTON (Reuters) - Internet phone services have drawn millions of users looking for rock-bottom rates. Now they're also attracting identity thieves looking to turn stolen credit cards into cash.

Some Internet phone services allow scam artists to make it appear that they are calling from another phone number -- a useful trick that enables them to drain credit accounts and pose as banks or other trusted authorities, online fraud experts say.

"It's like you've handed people an entire phone network," said Lance James, who as chief technology officer of Secure Science Corp. sees such scams on a daily basis.

The emerging scams underline the lower level of security protecting Voice Over Internet Protocol, or VOIP, the Internet-calling standard that has upended the telecommunications industry over the past several years.

Traditional phone networks operate over dedicated equipment that is difficult for outsiders to penetrate. Because VOIP calls travel over the Internet, they cost much less but are vulnerable to the same security problems that plague e-mail and the Web.

Internet worms that snarl online networks can render VOIP lines unusable, and experts at AT&T say VOIP conversations can be monitored or altered by outsiders.

Federal Trade Commission Chairman Deborah Platt Majoras recently warned that unscrupulous telemarketers could use VOIP to blast huge numbers of voice messages to consumers, a technique known as SPIT, for "spam over Internet telephony."

All of these threats remain largely in the realm of theory. Caller ID spoofing, on the other hand, has emerged over the past six months as a useful tool for identity thieves and other scam artists, according to fraud experts.

PRESIDENT BUSH ON THE LINE

Any reporter would scramble for a ringing phone that reads "White House media line" on its caller ID display.

But it's not the Bush administration on the line -- it's security instructor Ralph Echemendia, calling from a mobile phone on a remote Georgia highway.

"You can see how this sort of thing could be used in a very malicious way," said Echemendia, a security instructor at the Intense School, a technology training company.

Caller ID spoofing is not prohibited by law, but the Federal Communications Commission requires telemarketers to identify themselves accurately, a spokeswoman said.

Echemendia built his own system to spoof calls, but several free or low-cost services allow even technical novices to falsify caller ID information as well.

Debt collectors and private investigators use Camophone.com's 5-cents-per-call service to trick people into answering the

phone, according to messages posted on a discussion board.

Traveling salesmen say the service comes in handy when they want clients to return calls to the main office, rather than their motel room.

James said criminal uses of caller-ID spoofing have become common over the last six months.

Wire-transfer services like Western Union (FDC.N: Quote, Profile, Research) require customers to call from their home phone when they want to transfer money in an effort to deter fraud -- a barrier easily sidestepped by any identity thief using a caller-ID spoofing service.

Fraud rings can now transfer money directly out of stolen credit-card accounts, rather than buying merchandise and reselling it, he said.

Western Union spokeswoman Danielle Periera said the company has no other way to verify that transfer requests are valid.

"We try hard to stay one step ahead of them and recognize that scam artists are sophisticated and often change their schemes," she said.

Criminals can use caller-ID spoofing to listen to other people's voice mail, James said, especially when those accounts are not protected by passwords.

They also have begun to use the technology to make it appear that they are calling from a bank or other financial institution, said Dave Jevans, who chairs the Anti-Phishing Working Group, a banking-industry task force.

That helps them convince consumers to divulge account numbers, passwords and other sensitive information in a scam that echoes the "phishing" e-mails that have become common, he said.

VOIP industry pioneer Jeff Pulver, whose Free World Dialup service can be used to spoof calls, said he couldn't prevent abuse of his system.

The problem will likely recede as companies like VeriSign Inc. (VRSN.O: Quote, Profile, Research) and NeuStar Inc. develop ways to verify online identities, he said: "We're not there yet, but we're going to get there."

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Caller-ID Spoofing: 'Appallingly Bad Idea'



By Erika Morphy
September 2, 2004 1:26PM

A new software system that allows users to fool telephone caller-ID opens the door to a variety of abuses. "What an appallingly bad idea" security firm Sophos.

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>> A startup company has developed a software system that allows users to spoof a caller-ID number in order to trick the telephone-call recipient into answering the phone.

Developed by Star38, the service will be marketed solely to collection agencies, private investigators and the police, according to statements made by the company.

The system itself is said to be easy to use, with the user typing in the recipient's number and the number he or she would like to appear on the caller ID.

Appallingly Bad

Critics of the system -- and there are many, even outside the usual privacy/consumer-advocacy brigade -- find the technology frightening. "What an appallingly bad idea," says Graham Cluley, managing consultant for security and antivirus firm Sophos. "It reminds me of the hacker-driven spam and phishing scams that have taken over the Internet," he told NewsFactor.



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In fact, it is a much worse form of deception than Internet fraud, says John Morris, staff counsel for the Center for Democracy & Technology, a Washington-based public-policy organization with a focus on technology.

Reasonable Expectation

"On the Internet, most people understand that the identity of someone who is sending an e-mail may easily be spoofed," Morris told NewsFactor. "But the phone, historically, has had a different set of expectations or assumptions. Most people that have Caller ID assume the number listed is accurate."

In news accounts, Star38 has emphasized its intent to limit the technology to the police, collection agencies and private investigators.

However, "there really isn't anything that will prevent this kind of technology from being used by other firms, such as telemarketers, now that it has been developed," Morris says, adding, "in this age of identity theft, we are skeptical that spoofing other phone numbers on Caller ID is a desirable development."

One scenario, Morris suggests, might be someone purporting to call from a distant relative's house, claiming the person had an accident.

Potential for Abuse

But even assuming that Star38 keeps the technology in the hands of collection agencies, private investigators and the police, there still would be cause for worry.

While the police may well have a legitimate need for the technology in criminal investigations, the potential for abuse by collection agencies and PIs is huge.

For example, there have been cases of stalkers retaining private investigators to find victims who went into hiding.

As for collection agencies, the potential for abuse is even wider. "We don't understand what purpose a legitimate collections agency would have in hiding its identity," Morris says.

The typical example, of course, is an agency that uses the system to get a phone-shy debtor to answer the call and coax him or her into paying the debt.

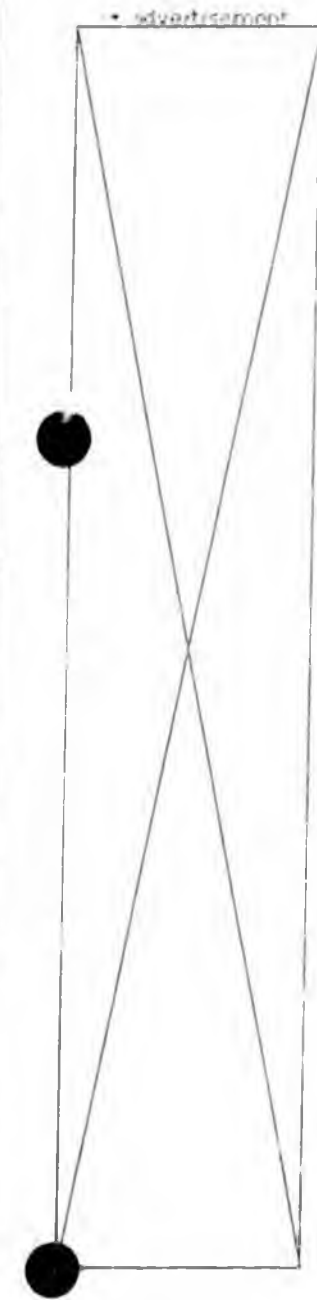
Collection agencies, though, have not entirely shed their less-than-upstanding practices since the passage of the Fair Debt Collection Practices Act. Recently, one firm was fined for continually contacting and harassing a debtor's neighbors -- a

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practice clearly illegal under FDCP.

Over the Line

More often, though, when these agencies go over the line, it is a little more discreet.

Recently, a legal journal reported that a court found a collection agency had made false statements as to the time limit of a debt-discount offer; reportedly, the firm told the debtor she had 30 days to make a payment if she wanted to get a percentage taken off her debt. In truth there was no time limit of 30 days -- a deception prohibited by the law.

Which brings us back to Star38's latest contribution to the Internet age. In his first take on the system, Morris says he does not believe the system itself violates the tenets of FDCP. When it gets in the hands of the agencies, though, that may be a different story.

"I do believe we will see some deceptive practices on the part of the agencies that will violate the spirit of FDCP," he says.

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March 2005 Archive

March 08, 2005

"Caller ID spoofing" an emerging VoIP security threat

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If you have caller ID, you might want to think twice about trusting the information displayed on your telephone. As more people place phone calls over the Internet instead of the wired telephone network, identifying the person on the other end of the line is getting more difficult.

Starting late last summer, people all over the U.S. and Canada got phone calls from a Twin Cities phone number -- a recorded voice offering a deal on wireless phone services. When they called the number to complain, they were patched through to a small Minneapolis company that definitely was not selling Nokias or Blackberries. It was a company that provides janitorial services to area businesses.

Building Resources Corporation office manager Rhiannon Fisk fielded the complaints.

"Around Christmastime, the call volume started to pick up, and we got dozens and dozens every day," she said. "It got to the point where we just had to start ignoring them because it was affecting how we did business."

Understandably, the callers complained angrily about the unwanted telemarketing calls.

"I'll pick up the phone, they immediately say you called my house and I want you to stop calling, and take me off the list, and they usually just hang up," Fisk said.

Fisk sought answers from the company's telephone provider, Integra, but received none. She then complained to the Minnesota Attorney General. The AG's office told Fisk that, while nothing could be done, it knew the likely source of the problem: caller ID spoofing. The shady telemarketers, wanting to avoid detection, made it look like it was someone else. It's a mystery why they chose the Minneapolis company.

Scammers have long known how to fake the source of e-mail. Since Voice over IP, or VOIP, sends voices as packets of data, it was perhaps predictable that telephone customers would start seeing a

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problem like e-mail spoofing.

"If you pick up your standard phone today, and you have caller ID, you can see which number is actually calling you, and you have a very high level of assurance that it really is that telephone number," said Stuart McIrvine, security researcher at IBM. Now, when you start to get into Voice over IP, it's very easy for someone to fake that number, so you think the call is coming from somewhere else."

Consumer advocacy groups are just beginning to field complaints about the problem. Jordana Beebe with the Privacy Rights Clearinghouse says she's not sure how many people are being burned by caller ID spoofing, but calls it a deceptive practice that should be stopped.

"Caller ID is there so that you know who is calling and you can make a determination about whether you want to take that call or not," she said. "And if for instance that technology is being abused so that you are duped into taking a call that otherwise you wouldn't take, we feel that consumers shouldn't be in that type of situation."

You don't have to be a skilled, devious hacker to trick caller ID displays. In the past year, about a half dozen services have cropped up that use VoIP technology to sell caller ID spoofing, at five to ten cents a minute, to consumers. They go by names like "Telespoof," and "Camophone." They're marketed to people who want to hide their true identities, like bill collectors and private investigators. Only one caller ID spoofing service, responded to inquiries from MPR, but the owner wouldn't reveal his name, saying only that he believes his service is ethical and lawful.

Beebe of the Privacy Rights Clearinghouse says new regulations and laws are needed to fight caller ID spoofing. But VoIP is largely unregulated. A spokeswoman at the agency that would most likely have jurisdiction, the Federal Communications Commission, did not respond to numerous requests for comment.

In the meantime, caller ID spoofing could get worse as more consumers and businesses switch to Internet telephone calls.

"What we're going to see is more people devote more time and energy into breaking it, because it's going to become more popular," said David Endler of the Voice Over IP Security Alliance.

Back at the janitorial services firm, office manager Rhianon Fisk says that mercifully, her phone stopped ringing off the hook about a month ago. The calls ended as mysteriously as they appeared.





'Spoofing' lets pranksters dial M for mayhem

Monday, April 11, 2005

BY KEVIN COUGHLIN
Star-Ledger Staff

When a hoax led sharpshooting SWAT teams to shut down a New Brunswick neighborhood last month, the world learned about a dangerous new game called "bombing."

Prank phone calling, once a summer pastime of slap-happy kids, had morphed into a blood sport.

While details still are unfolding on how the New Brunswick emergency call and others like it were faked, experts on privacy and security warn that Internet technology and legal loopholes are handing hoaxsters a powerful weapon to dupe everyone: caller ID "spoofing."

Over the past few months, companies such as Camophone, CovertCall, Telespoof and SpoolTel have sprouted online with offers to place calls that display any callback number you want, for just pennies a minute.

"Be Anyone, Anywhere, Anytime," proclaims the Web site of PI Phone.

PI Phone and rivals Star3d and U.S.Tracers purport to serve only private investigators or law enforcement personnel, who presumably have good reasons for tricking outlaws to answer the phone. But other services welcome all comers; for an extra fee some even will record the results.

"Wanna have some fun? Appear to be someone else, and set up the Ultimate Prank Call," says the Web site for CovertCall, which sponsors a \$250 contest for the best prank.

CovertCall suggests fooling debtors into accepting calls, spoofing your business line to keep your personal number private, and exploiting cellular plans that offer free incoming minutes. "Want to chat with sexy singles? Get endless free trials by calling in with random caller IDs!"

On the Web, CovertCall users even debate methods -- and ethics -- of spoofing a spouse's number to access his or her cellular messages.

The Federal Communications Commission and Federal Trade Commission say they have taken no enforcement actions against these services. But others predict it won't be long before an emergency hoax, identity theft or duped domestic violence victim triggers calls for a crackdown.

"The potential for abuse with this technology is huge," says Jordana Beebe of the nonprofit Privacy Rights Clearinghouse, a San Diego group that advocates for consumer privacy protections.

Adds Kevin Mitnick, co-author of "The Art of Intrusion" and a reformed hacker himself: "You can't trust caller ID. There is no assurance that it is coming from the entity that's displaying on the device."

To prove his point, Mitnick used Vonage, the Edison-based Internet phone company, to call a reporter's cell phone. The call appeared to come from the reporter's office number. The ruse took Mitnick only a few seconds.

Many Internet telephone services let users update their accounts with any callback numbers or emergency addresses they choose. This can be a lifesaver. If you're vacationing and making calls over the Internet, you probably want your service provider to direct police to your vacation spot if you punch 911 in an emergency.

(Spoofing 911 calls over conventional phone networks is much harder. They deploy an embedded billing technology, called SS-7, which automatically links a 911 call with the physical address of the telephone. The New Brunswick hoax appears to have been phoned to a regular police line, not to 911.)

Mitnick, who spent almost five years in jail for hacking into companies such as Motorola and Sun Microsystems, says some financial institutions use caller ID to authenticate telephone requests for personal account information. With a few personal tidbits and your spoofed number, he says, an impostor could access your bank or credit card account.

SPOOF WITH EASE Actually, spoofing phone calls is nearly as old as caller ID, a service that debuted in New Jersey -- despite protests from privacy advocates -- in the late 1980s. Back then, spoofing required some technical savvy. Now, anyone with a credit card and a phone or online computer can play.

Typically, after setting up an account with a spoofing service, you call its toll-free line or log onto the Web site. Enter a number to call, and the callback number to display, and the service does the rest.

The mere act of faking someone's phone number is not illegal, says Erin McGee of the CTIA, a wireless industry trade association.

Jim Reynolds of Star38 says his company, launched last fall in Delaware by former law enforcement agents for current agents, was the first commercial spoofing service. Other services are copycats and lawbreakers, he says.

"I guarantee those people will be prosecuted. It's only a matter of time," says Reynolds.

Star38 is meant to help the good guys hunt the bad guys; rivals "give people a license to harass people and break the law," he says.

Because Star38's calls are placed entirely over the Internet, they are exempt from FCC regulations, Reynolds contends. Competitors can't make the same claim, he insists.

But most Internet calls hop onto regular phone networks at some point, says Mark Wigfield of the FCC. "We would have to look at the facts" of any case, he says.

Federal Trade Commission rules bar telemarketers from spoofing caller ID to sidestep the national "Do Not Call" registry established in 2003. Some business uses of spoofing also could violate FTC prohibitions against unfair or deceptive trade practices, says spokesman Brad Winter.

Banning all spoofing would be a mistake, says Vonage chief technical officer Louis Mamakos. That might bar legitimate uses for altering callback numbers -- such as directing customers to general help numbers instead of to specific representatives.

In fact, spoofing services actually may help preserve personal privacy, says Jonathan Bick, a

Rutgers University law professor and author of "101 Things You Need to Know About Internet Law." These services restore a right to anonymous speech that caller ID had stripped, Bick says.

"We just have evolving technologies," he says. "And as technologies evolve, so do countermeasures."

THE SPOOFERThe sudden rise of spoofing services can be tied, variously, to boredom, the National Hockey League, and a struggling college student.

SpoofTel was born in Vancouver two months ago when a computer security specialist named Ryan Purita got bored.

"This is why having no hockey on TV is bad," jokes Purita, referring to the canceled NHL season.

Purita thought the Star38 service sounded cool but was miffed it only served cops. So he cooked up SpoofTel and says it now has about 800 active users who average between 2,000 and 5,000 minutes a day at a dime per minute, Canadian.

He promises to deal swiftly with any reported abuses but defends caller ID spoofing.

"We're offering a service. If someone is using it illegitimately, what can we do? That's the Internet," Purita says.

"They still sell crowbars, don't they? They can be used for many different things. I don't see anybody being stopped from selling guns. I would guess more people are killed by guns than from spoofing caller ID," he says.

Ben Rosenthal also entered the caller ID spoofing business in January, with his PI Phone service for private investigators.

"I saw an opportunity and profit there, and a way to do it honorably and legally, and jumped on it," says Rosenthal, based in Westchester County.

He says it's feasible thanks to free software called Asterisk. It turns a PC with a fast Internet connection into a full-fledged telephone system, with features that once cost thousands of dollars. "The barrier to entry became very low," Rosenthal says.

Asterisk was hatched in 1999 by Mark Spencer, an Auburn University computer engineering student. He also ran a tech support business for people using the free, "open source" Linux computer operating system.

"I needed a phone system. I couldn't afford to buy one, so I decided to make one," recounts Spencer, who now sells Asterisk-based services and hardware at Digium Inc. in Alabama.

Although Spencer's handiwork has spawned outfits that now sell deceptions by the minute, he insists the big phone companies could curb spoofing if they wanted. Not that he's a fan of spoofers, mind you.

"I honestly don't approve of people doing this," says Spencer, 27, who sees the world as divided between those who use technology for good and those who use it for evil. "I would rather be in that first camp, trying to do something to help people."

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NEWS

< <http://www.securityfocus.com/news/9061> >

VoIP hacks gut Caller I.D.

Implementation quirks in Voice over IP are making it easy for hackers to spoof Caller I.D., and to unmask blocked numbers.

By Kevin Poulsen, SecurityFocus Jul 6 2004 1:54PM

Caller I.D. isn't what it used to be.

Hackers have discovered that the handy feature that tells you who's calling before you answer the phone is easily manipulated through weaknesses in Voice over IP (VoIP) programs and networks. They can make their phone calls appear to be from any number they want, and even pierce the veil of Caller I.D. blocking to unmask an anonymous phoner's unlisted number.

At root, the issue is one of what happens to a nugget of authentication data when it leaves the tightly-regulated realm of traditional telephony, and passes into the unregulated domain of the Internet.

On the old-fashioned phone network, Caller I.D. works this way: your local phone company or cell phone carrier sends your "Calling Party Number" (CPN) with every call, like a return address on an envelope. Transmitted along with your CPN is a privacy flag that tells the telephone switch at the receiving end of the call whether or not to share your number with the recipient: if you have blocking on your line, the phone company you're dialing into knows your number, but won't share it with the person you're calling.

This arrangement relies on telephone equipment at both ends of the call being trusted: the phone switch providing you with dial tone promises not to lie about your number to other switches, and the switch on the receiving end promises not to reveal your number if you've asked that it be blocked. In the U.S. that trust is backed by FCC regulations that dictate precisely how telephone carriers handle CPNs, Caller I.D. and blocking. Most subscribers have come to take Caller I.D. for granted, and some financial institutions even use Caller I.D. to authenticate customers over the phone.

Despite that, the system has long been open to manipulation. "A lot of times you can offer any number you want, and carriers won't validate that," says Lance James, chief security officer of Secure Science Corporation. But in the past, the power to misrepresent your number came with a high price tag: you typically had to be a business able to pay the local phone company for a high-volume digital connection. On the other side of the equation, companies who pay for toll free numbers can often access an incoming caller's phone number even if it's blocked.

Voice over IP networks, currently outside FCC regulation, place those capabilities in the hands of ordinary netizens. In a telephone interview with SecurityFocus, 21-year-old phone hacker "Lucky 225" demonstrated how he could spoof his Caller I.D. to appear to be phoning from the reporter's office. In another demonstration, the reporter phoned Lucky's associate "Natas" from a residential phone with Caller I.D. blocked. Natas was able to rattle off the unlisted phone number.

As described by Lucky, who's scheduled to give a talk on the subject at the DefCon hacker convention later this month, much Caller I.D. chicanery can be accomplished by taking advantage of implementation quirks in Voice over IP networks that try, but fail, to implement Caller I.D. properly. "There are little exploits that you can do," says Lucky. But the most powerful tool for manipulating and accessing CPN data is the open-source Linux-based PBX software Asterisk, used in combination with a permissive VoIP provider. "It's fully configurable, you can pretty much do anything you want with it," says Lucky. "That's why Voice over I.P. is changing things."

Natas used Asterisk in conjunction with the NuFone Network for his demonstration of Caller I.D. unmasking. NuFone chief Jeremy McNamara didn't return phone calls for this story.

Privacy advocates, who had reservations about Caller I.D. when it was introduced in the 90s, aren't happy that it's becoming easier to subvert. "A worse case scenario is if you have a blocked number, and you're a victim of stalking, and you're duped into calling a number the stalker set up that was routed through a VoIP line," says Jordana Beebe of the San Diego-based Privacy Right's Clearinghouse. "It could put their life in danger."

Callers with life-or-death anonymity concerns might consider spoofing just to get a little privacy. For now, Lucky says pranks among friends are the most common use that he's seen of VoIP spoofing, but he believes that identity thieves and other swindlers could have a field day. "I've used it myself to activate my own credit cards, because I never give credit card companies my real number," he says. "One simple spoof, and it's like saying, if you have the guy's phone number, that piece of information is more important than his mother's maiden name and date of birth. If you have the phone number, you don't need anything else."

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Caller ID missing in OPD

by Lindsay Huell
DM Staff Reporter
February 25, 2005

One might assume that when a police dispatcher fields a telephone call, a caller ID device would immediately track the caller's whereabouts. This, however, is not the case at the Oxford Police Department.

According to Jason Plunk, owner of Night Town in Oxford, an apparent prank call led officers to his business Monday at midnight. Plunk said the police were unable to trace the call, and they responded to a false report of a fight occurring in the parking lot.

"My impression is that someone phoned the police department representing Night Town," he said. "I am the only one who can make a judgment decision about calling the police. So I knew that the call had not been made from Night Town."

Plunk said the police told him the call came from a cell phone, but they did not know — and would have no way of discovering — who made the call.

Assistant Police Chief Mike Martin said implementing a caller ID system would be problematic.

"With as many lines as our telephone system has, we have been told that we may never be able to have caller ID," Martin said.

Martin said the police department currently has 12 lines connected with their telephone system, and the caller ID function only works with a one-line system.

In the event of a serious prank, the department has other ways of tracking calls through the Bell South telephone company.

But Martin said the majority of prank calls are made to the emergency 911 system.

Emergency 911 dispatchers do have identification capabilities.

The police department's telephone system is networked with the fire department and city hall. If the system were to be updated to incorporate caller ID, the whole network would have to be changed, Martin said.

Lori Nicholson of the Germantown Police Department in Germantown, Tenn., said their telephone system is also connected to the fire department and city hall.

They have seven emergency department lines do not contain the caller ID function either.

She said Germantown's emergency 911 lines are the only ones able to identify incoming calls.

T-Mobile security flaw in voicemail. Beware and change



By David Ciccone, posted Tuesday, Feb. 22nd, 2005
Reader Comments: 4
Pageviews: 20,245

Simple caller-id spoofing enables unwarranted access to your voicemail.

If any of our members of the community have Sprint or T-Mobile and you have auto voicemail login enabled, you are vulnerable to a simple hack to access your voicemail. I have auto voicemail login enabled because I hate entering my voicemail PIN number each time I want to check my messages.

The voicemail authentication system is simple. It uses caller ID to validate the originating number – if the caller ID matches your cell phone number (ie. your cell phone calling in to check your voicemail messages), it will log you in automatically.

Since the announcement of commercial caller ID spoofing systems such as CovertCall and another called TeleSpooF. For those not in-the-know, caller ID spoofing allows you to change your caller ID number to anything you like. This is extremely vulnerable and make sure you turn off auto login enabled. This is probably how they hacked into Paris Hilton's voicemail.

What is CoverCall?

Covert Call allows you to alter the caller id that is sent to the phone you are calling. It can operate just like a calling card, all for the price of a normal long distance call.

here's a scenario: Out of the office and need to contact a business associate, but don't want to reveal your private cell phone number?... Covert Call will display your business number on their caller id. No one will ever know where you are really calling from!

Manipulate the caller id, that is sent from your phone. Appear to be anyone, anywhere. This service is compatible with nearly all phones, cell phones, and even the new VoIP phones!

What is TeleSpooF?

TelespooF is offering the first domestic and international Caller I.D. spoofing service, allowing business professionals to remain anonymous when calling from anywhere in the world, to anywhere in the world. TelespooF allows you to be whoever you want to be.

Our service is for business professionals within the U.S. including, but not limited to; Private Investigators, Skip Tracers, Law Enforcement, Debt Collection Agencies, Insurance Agencies and Lawyers, allowing the freedom to choose any number to show up on the Caller I.D. display.

TelespooF operates on toll free numbers within the U.S. giving clients access from wherever they may be. No need to be in the office or at a computer to use the service. TelespooF also allows clients to place international calls with spoofed Caller I.D. permitting the technology is available within the destination country.

Quote

The only reason for the staff at Dave's iPAQ posting this is to protect the members of our community. We do not support any of these types of actions at all!

Post Your Comments

And if I purchase a throw away cell with 100minutes how are you going to track it back? That's basically how hackers do it.

Posted by **David Ciccone**, Wednesday, Feb. 23rd, 2005

The easy way to secure your voicemail from spoofed caller ID is to set it up to require you to enter your password every time.

David chose to copy and paste the ad copy directly from CovertCall and Telespoof's respective web sites. It should be noted that, even with spoofed caller ID, there is a record of the source and destination of every phone call that is placed on the US telephone network. There is no such thing as untracable phone calls.

Additionally, Telespoof was not the first company to market with caller ID spoofing.

Posted by **PI Phone**, Wednesday, Feb. 23rd, 2005

I used to have a Sanyo (5000?) cell phone years ago that allowed me to screen calls. When the phone rings, you would hit a side button that activated a local digital voice mail like introduction recording. It would appear to be a normal voice mail greeting. (of what ever you recorded) You could then interrupt to say hi after confirming it was actually someone you want to talk to. (assuming they know to say something early, or while they are leaving a message) That's the only way I can think of to get around some of the potential headache. I havnt seen a phone with this feature though since then.

Posted by **s4czech**, Tuesday, Feb. 22nd, 2005

Everyone please note this is a very easy way to access voicemails. Paris Hilton's entire Tmobile voice mailbox is all over the internet. This could possibly be the way they got in.

Posted by **David Ciccone**, Tuesday, Feb. 22nd, 2005

But the Tupelo Police Department has four lines, all with caller ID directly linked to their department, according to a spokesperson.

Their system is not linked to any other department in the city, she said.

The technology department in charge of maintaining the telephone system for the city of Oxford was unavailable for comment.

Prank Calls Spook 'Other' Clintons

NORTH LITTLE ROCK, Ark. - Prank calls are nothing new for the famously named Bill Clinton of North Little Rock, but never as scary - or as high-tech - as this one.

Clinton, who is not related to the former president and Arkansas governor of the same name, was the victim of a dangerous prank last month when another person used a computer to hack into a caller-ID system and hijack Clinton's home number.

After hacking into a computer system in a process called "caller-ID spoofing," the as-yet unidentified caller made several calls home Jan. 29, telling Clinton's son he was going to disturb all the neighbors with calls that would appear to come from Clinton.

The prankster then called police to make it look like it was Clinton calling, said he had a gun to someone's head and hung up armed officers to besiege Clinton's home.

Clinton had been sleeping, but his son had received the crank calls, including one saying the police were on the way. Clinton went outside to meet the police, who discovered that several calls were recorded on Clinton's own caller-ID system as having come from his own phone. That's when they realized somebody had hacked into the computer system and impersonated Clinton's telephone identification code.

Computer experts say that few people know about "spoofing" programs, which are available on the Internet and were developed so that telemarketers can bypass caller-ID systems. Coskun Bayrak of the computer science department at the University of Arkansas at Little Rock said wider knowledge of "spoofing" could encourage copycats, but could also pressure the software industry to develop improvements to cover the loopholes.

Clinton said he's received bomb threats and harassing telephone calls before, "presumably because his name is William Clinton and he lives in the Little Rock area," the police report said.

Police haven't found the culprit, but reviewed Clinton's phone records and found one suspicious call from Winterville, N.C., before the series of calls disguised as coming from Clinton's phone. The owner of the North Carolina told Winterville police that she too had been victimized by the crank caller.

The spoofer called again later the night of Jan. 29, after the police left, to see if the police had shown up. When Clinton mentioned the caller was from Winterville, the line went dead and the person hasn't called back, Clinton said.

