

**A PUBLIC INITIATIVE**  
**FOR AN ACT ENTITLED**

**"An Act relating to establishing the Alaska Gaming Commission."**

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

**FINDINGS AND PURPOSE:**

The people of the State of Alaska find and determine that it is in the public interest to have controlled, well managed gaming in Alaska, and protect the public to:

- (1) provide recreational opportunities for Alaskans,
- (2) attract additional tourists to Alaska because the activities available to them will increase,
- (3) retain revenue in Alaska which now leaves the State because of illegal, out-of-state and internet gaming,
- (4) provide new economic development as a sustainable industry,
- (5) provide additional potential sources of revenue to support programs such as education, transportation, fish and wildlife management, and operations of state and local governments, and
- (6) help protect the permanent fund.

**\* Section 1.** AS 04.11.370(c) is amended to read:

(c) If the board receives notice from the **Alaska Gaming Commission** [DEPARTMENT OF REVENUE] that a licensee or permittee has violated a provision of AS 05.15 related to gambling, the board

(1) may suspend the license or permit; and

(2) shall suspend the license or permit for a period of at least 30 days if the offense is the person's second or subsequent violation of AS 05.15 related to gambling.

**\* Sec. 2.** AS 05.15.010 is amended to read:

**Sec. 05.15.010.** **Alaska Gaming Commission** [DEPARTMENT OF REVENUE] to administer chapter. The **Alaska Gaming Commission in the** Department of Revenue shall administer this chapter.

**\* Sec. 3.** AS 05.15.690 is amended by adding a new paragraph to read:

(46) "commission" means the Alaska Gaming Commission.

**\* Sec. 4.** AS 05 is amended by adding a new chapter to read:

**Chapter 18. Alaska Gaming Commission.**

**Article 1. Administration.**

**Sec. 05.18.010. Creation of commission.** (a) The Alaska Gaming Commission is established for the purposes of generating revenue for the state and regulating gaming activities in the state. The commission is established in the Department of Revenue. The commission consists of five voting members and two ex officio

nonvoting members appointed by the governor, subject to confirmation by the legislature. One voting member shall be appointed from each of the four judicial districts of the state. One voting member shall be an at-large member. Not more than three of the seven members may be members of the same political affiliation or party. One voting member of the commission must have a least five years' experience in law enforcement and one voting member must be a certified public accountant. One ex officio member of the commission must be an operator or permittee under AS 05.15, or an executive or managing director, member-in-charge, or member of the board of directors of an operator or permittee. One ex officio member of the commission must hold a license issued pursuant to AS 04.11, or be a majority owner, officer, or member of the board of directors of such licensee. The voting members of the commission shall elect one voting member to serve as chair of the commission.

(b) The voting members serve staggered terms of five years. The ex officio members serve nonstaggered five-year terms. A member may be appointed but may not serve for more than ten consecutive years.

(c) A member of the commission does not receive a salary for service on the commission but is entitled to per diem and travel expenses authorized for members of boards and commissions under AS 39.20.180.

(d) A voting member of the commission may not have a pecuniary interest in a contract agreement entered into by the commission.

(e) A person may not serve as a voting member of the commission if that person

(1) has been convicted of

(A) a felony; or

(B) an offense under this chapter, AS 11.66.200 - 11.66.280, or a comparable provision of municipal, state, or federal law;

(2) is an elected official of the state or of a political subdivision of the state;

(3) is an operator or an executive or managing director or member-in-charge of an operator or permittee under AS 05.15; or

(4) holds a license or permit under AS 04.11.

(f) A person may not serve as an ex officio member of the commission if that person has been convicted of a crime listed in (e)(1) of this section or is an elected official of the state or of a political subdivision of the state.

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

(h) Three voting members of the commission constitute a quorum for the transaction of business.

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

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

**Sec. 05.18.020. Meetings.** (a) The commission shall meet at least quarterly at the call of the chair, at the request of a majority of the voting members, or at a regularly scheduled time set by the commission.

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

(c) The voting members of the commission may exclude the ex officio members from executive sessions otherwise permitted by law.

**Sec. 05.18.030. Duties and powers of commission.** The commission shall

- (1) enter into contracts and agreements necessary to carry out the provisions of this chapter;
- (2) adopt regulations necessary to carry out the provisions of this chapter;
- (3) authorize gaming activities pursuant to Sec. 05.18.100;
- (4) administer, regulate, and enforce the gaming laws under AS 05.15;
- (5) investigate violations of the laws of Alaska related to gaming and the gaming industry, and refer violations to the Department of Law for prosecution.
- (6) report to the governor and the legislature on the gaming activities authorized and on the total revenue, prize disbursement, and other expenses on a periodic basis as determined by the commission;
- (7) report to the governor and the legislature each year on authorized gaming activities, including a full and complete statement of revenue, prize disbursement, and other expenses, and recommendations for changes in this chapter;
- (8) report to the governor and the legislature as frequently as the commission determines necessary on conclusions from the analysis of the reaction of state residents to gaming activities, and on matters that require changes in the law to prevent violations or evasions of this chapter or to correct undesirable conditions in connection with the operation or administration of gaming activities;
- (9) monitor the operation of gaming throughout the state; and

(10) study and investigate the operation and administration of gaming laws of other states and of federal laws that affect gaming activities.

**Sec. 05.18.040. Regulations.** The commission shall adopt regulations under AS 44.62 (Administrative Procedure Act) to establish

(1) the types of gaming activities to be conducted if those activities are permitted under AS 05.18.100;

(2) the places and locations where gaming activities under this chapter may be conducted; except that the commission may not: (a) create Gaming Districts as defined in Section .05.15.701 (8) of the initiative entitled "Alaska Video Lottery Law" (the "VLT Initiative") except in accordance with the procedures set forth in Section 5.15.707(3) of the VLT initiative; and/or (b) prohibit the installation and/or operation of Gaming Machines (as herein defined) within a Gaming District by a Licensee as defined in the VLT Initiative; and/or (c) authorize, permit, license or approve the installation and/or operation of Gaming Machines (as herein defined) within Gaming Districts except as set forth in Section 05.18.100 or the VLT Initiative, if that initiative is enacted into law:"

(3) all matters necessary or desirable to carry out this chapter to operate gaming activities efficiently and economically, and to make the participation in gaming activities and the distribution of prizes convenient.

**Sec. 05.18.050. Executive director and employees.** (a) The commission shall employ an executive director who is qualified by training and experience to conduct the day-to-day work of the commission. The director may not engage in another professional occupation.

(b) Subject to approval of the commission, the director may appoint deputies required to carry out the functions and duties of the commission. The director may appoint professional, technical, and clerical employees necessary to perform the duties of the commission.

(c) The director is in the exempt service under AS 39.25.110.

(d) The commission may not employ a person who has been convicted, including conviction based on a guilty plea or plea of nolo contendere, of an offense that disqualifies a person from being a member of the commission.

**Sec. 05.18.060. Duties of director.** The director shall

(1) supervise the operation and administration of gaming activities;

(2) act as secretary to the commission;

(3) meet at least quarterly with the commission on the operation and administration of gaming activities;

(4) make available for inspection by the commission, upon request, all books, records, files, and other information and documents of the commission;

(5) advise the commission and make recommendations to improve the operation and administration of gaming in the state;

(6) suspend or revoke a contract issued under this chapter for a violation of this chapter or the regulations adopted under this chapter.

(7) provide each month to the commission a full and complete statement of the revenue, prize disbursements, and other expenses on a periodic basis as determined by the commission; and

(8) administer and enforce the charitable gaming laws in AS 05.15.

**Sec. 05.18.070. Subpoenas.** (a) The director or the commission may subpoena witnesses and documents in a matter over which the commission has jurisdiction, control, or supervision. The director or the commission may administer oaths and affirmations to persons whose testimony is required.

(b) If a person fails to obey a subpoena, or if a person refuses to answer a relevant question or to exhibit a document when ordered to do so by the director or the commission, the director or the commission may apply to the superior court for an order directing the person to comply with the subpoena or the order. The court may order the person to comply.

## **Article 2. Gaming Activities.**

**Sec. 05.18.100. Gaming activities.** (a) The commission may authorize any future gaming activities provided, however, the commission may not (1) create Gaming Districts (as defined in the VLT Initiative) except in accordance with the procedures set forth in Section 05.15.707(3) of the VLT Initiative if that initiative is enacted into law; and/or (2) other than in accordance with the provisions of the VLT Initiative, authorize, permit, license or approve the installation and/or operation of: (A) more than 5 Gaming Machines (as defined) at any location within the State of Alaska prior to December 31, 2012 and/or (B) more than 20 Gaming Machines (as defined) at any location within the State of Alaska subsequent to December 31, 2012. "Gaming Machines" shall be and mean any and all of: video lottery terminals, slot machines and all mechanical, electrical and/or computerized games of chance."

(b) The commission may participate with other states in multi-state gaming activities.

## **Article 3. Miscellaneous Provisions.**

**Sec. 05.18.300. State gaming fund and appropriations.** There is created in the general fund the State Gaming Fund. The state gaming fund consists of all revenue received from gaming activities and all other money credited or transferred to the fund from another fund or source. Appropriations may be made from the State Gaming Fund for any public purpose.

**Sec. 05.18.310. Audit.** The commission shall have an audit of the books and accounts of the commission performed at least once in each year by certified public accountants. The Legislative Budget and Audit Committee shall annually perform post-audits of the commission and report to the legislature. The commission may have special audits performed at any time on its own motion or at the request of the director. The commission shall file a copy of each audit with the commissioner of revenue and the legislature.

**Sec. 05.18.320. Prohibited acts.** (a) A person may not

(1) knowingly act as an operator or permittee or sell a gaming product unless that person is authorized to do so by the commission, or is an employee of an authorized operator or permittee authorized to do so and under the supervision of the employer, or is a licensee, restricted licensee, or employer of either as these terms are defined in the VLT initiative, if that initiative is enacted into law;

(2) except as otherwise authorized by AS 05.15, knowingly sell or offer to sell a gaming product to a person under 21 years of age;

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

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

or

(5) impersonate a representative of the commission.

(b) An agent or contractor may not knowingly withhold funds owed to the commission.

(c) In this section, "knowingly" has the meaning given in AS 11.81.900.

**Sec. 05.18.330. Assignment of contracts.** A person that enters into a contract under this chapter may not assign the contract without the approval of the commission.

**Sec. 05.18.340. Penalty.** A person that violates AS 05.18.320 or 05.18.330 is guilty of a class C felony.

#### **Article 4. General Provisions.**

**Sec. 05.18.900. Definitions.** In this chapter, unless the context requires otherwise,

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

(2) "director" means the executive director of the commission;

(3) "gaming product" means a ticket, receipt, card, or other item, except a prize, received by a person from an agent or an employee of an agent as evidence of participation in a gaming activity under this chapter;

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

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

\* Sec. 5.18.905 Inapplicability to Gaming Districts

This chapter does not apply to Gaming Districts as defined in Section 05.15.708 (8) of the initiative entitled "Alaska Video Lottery Law", if that initiative is enacted into law.

\* Sec. 5. AS 11.66.280(2) is amended to read:

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

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

(B) playing an amusement device that

(i) confers only an immediate right to 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 Alaska Gaming Commission under AS 05.15 or AS 05.18;

(D) an activity authorized by the initiative entitled "Alaska Video Lottery Law", if that initiative is enacted into law.

\* Sec. 6. AS 18.65.080 is amended by adding a new subsection to read:

(b) The Department of Public Safety shall investigate and ascertain whether a person appointed by the governor to serve as a member of the Alaska Gaming Commission has been convicted of a crime set out in AS 05.18.010(e).

\* **Sec. 7.** AS 39.25.110 is amended by adding a new paragraph to read:

(40) the executive director of the Alaska Gaming Commission.

\* **Sec. 8.** AS 39.50.200(b) is amended by adding a new paragraph to read:

(58) Alaska Gaming Commission (AS 05.18).

\* **Sec. 9.** AS 05.15.690(9) is repealed.

\* **Sec. 10.** The provisions of this act are independent and severable, and if any provision of this Act, or the applicability of any person or circumstance, shall be held to be invalid by a court of competent jurisdiction, the remainder of this Act shall not be affected and shall be given effect to the fullest extent practicable.

\* **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to read:

REVISOR INSTRUCTION. The revisor of statutes is instructed to change references to the "commissioner" and "department" in AS 05.15 to "commission" unless it is clear from the context that "commissioner" refers to a commissioner other than the commissioner of revenue and "department" refers to a department other than the Department of Revenue.