

HOUSE BILL NO. 385

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE WOOL

Introduced: 2/22/22

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act authorizing mobile sports gaming; relating to the regulation of mobile sports**
2 **gaming; imposing a tax on mobile sports gaming revenue; imposing a tax on fantasy**
3 **sports; relating to criminal history record checks; and providing for an effective date."**

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

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

6 (c) If the board receives notice from the Department of Revenue that a
7 licensee or permittee has violated a provision of AS 05.15 or AS 05.18 related to
8 gambling, the board

9 (1) may suspend the license or permit; and

10 (2) shall suspend the license or permit for a period of at least 30 days if
11 the offense is the person's second or subsequent violation of AS 05.15 or AS 05.18
12 related to gambling.

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

14 **Chapter 18. Mobile Sports Gaming.**

1 **Sec. 05.18.010. Mobile sports gaming license.** (a) A person may not offer or
2 operate mobile sports gaming in this state without a license issued under this chapter.

3 (b) The commissioner may issue or renew a mobile sports gaming license to a
4 person that

5 (1) submits an application on a form approved by the commissioner;

6 (2) pays the license fee required under (d) of this section;

7 (3) meets the application requirements established under (c) of this
8 section;

9 (4) has or has a partner or joint operating agreement with a person who
10 has a mobile sports gaming license in at least three other states;

11 (5) meets any other qualifications established by the commissioner by
12 regulation; and

13 (6) has submitted the fingerprints of the applicant and each person
14 disclosed under (c)(2) of this section and has provided the fees required by the
15 Department of Public Safety under AS 12.62.160 for criminal justice information and
16 a national criminal history record check; the fingerprints and fees shall be forwarded
17 to the Department of Public Safety to obtain a report of criminal justice information
18 under AS 12.62 and a national criminal history record check under AS 12.62.400; or
19 submits the results of a criminal history record check conducted in another state within
20 the previous 12 months and a certification that there has been no material change since
21 the criminal history record check was completed.

22 (c) An applicant for a license or license renewal under this chapter shall

23 (1) include in the application the name, current address, and telephone
24 number of the applicant;

25 (2) disclose, if the applicant is not an individual,

26 (A) the state in which the applicant is incorporated, organized,
27 or formed, and any state in which the applicant is registered to do business;

28 (B) the names and addresses of all of the applicant's partners,
29 executive officers, managers, directors, and corporate officers;

30 (C) each corporate holding company, parent company, or
31 subsidiary company of a corporate applicant and each person that owns 15

1 percent or more of the corporate applicant's business and that has the ability to
2 control the activities of the corporate applicant or elect a majority of the board
3 of directors of that corporate applicant, except for a bank or other licensed
4 lending institution that holds a mortgage or other lien acquired in the ordinary
5 course of business;

6 (D) each person associated with a noncorporate applicant that
7 directly or indirectly holds a beneficial or proprietary interest in the
8 noncorporate applicant's business operation or that the commissioner otherwise
9 determines has the ability to control the noncorporate applicant; and

10 (E) any executive, employee, or agent of an applicant who has
11 ultimate decision-making authority over the conduct of the applicant's mobile
12 sports gaming operations in the state;

13 (3) provide, for the applicant and each individual disclosed on an
14 application, a record of any other gambling-related licenses or applications previously
15 issued or revoked under this chapter or in any other jurisdiction;

16 (4) provide proof that the mobile sports gaming system the applicant
17 intends to use has been tested and certified for use in another jurisdiction of the United
18 States by an independent testing laboratory; and

19 (5) provide any additional information required by the commissioner.

20 (d) An applicant for an initial license or license renewal under this section
21 shall pay a license fee of \$5,000. In addition to the license fee, the commissioner may
22 charge a processing fee for an initial or renewed license.

23 (e) A mobile sports gaming license issued under this section grants a licensee
24 the authority to conduct mobile sports gaming through any mobile application or
25 digital platform approved by the commissioner within the terms of the license and
26 regulations adopted under this chapter. A mobile sports gaming license or renewal is
27 valid for three years unless suspended or revoked under AS 05.18.020.

28 (f) A licensee shall give 30 days' written notice of any material change to
29 information provided in the licensee's application for a license or license renewal,
30 including any change in the information disclosed in (c)(2) of this section.

31 (g) The commissioner may not approve the issuance of more than 10 mobile

1 sports gaming licenses under this section.

2 (h) The commissioner shall keep confidential all application information used
3 in the course of approving or denying an application, including any proprietary
4 information, confidential commercial information, or confidential financial
5 information that pertains to an applicant or licensee. The commissioner may release
6 records and information that are kept confidential under this subsection

7 (1) if the release is necessary to comply with a court order, if the
8 requester is a state or federal agency, or if the requester is under contract with the state
9 or federal agency to conduct research;

10 (2) if the information is an aggregate compilation of financial or tax
11 information from three or more licensees; and

12 (3) after 25 years, at which time the records and information that were
13 kept confidential under this subsection become public records subject to inspection
14 and copying under AS 40.25.110 - 40.25.140.

15 **Sec. 05.18.020. Denial, reprimand, suspension, or revocation of license.**

16 The commissioner may deny a license to an applicant, reprimand a licensee, or
17 suspend or revoke a license if the applicant or licensee

18 (1) knowingly makes a false statement of material fact to the
19 commissioner;

20 (2) intentionally does not disclose the existence or identity of a person
21 as required under AS 05.18.010(c)(2);

22 (3) has had a license revoked by any government agency responsible
23 for the regulation of gaming activities;

24 (4) has been convicted of a crime of moral turpitude, a gambling-
25 related offense, or a theft or fraud offense or has otherwise demonstrated, evidenced
26 by a police record or other satisfactory evidence, a lack of respect for law and order;

27 (5) has not demonstrated to the satisfaction of the commissioner
28 financial responsibility sufficient to adequately meet the requirements of the operation
29 of a mobile sports gaming business or proposed mobile sports gaming business; or

30 (6) has not met the requirements of this chapter.

31 **Sec. 05.18.030. Licensee duties.** A licensee shall

1 (1) use a software monitoring system that meets industry standards to
2 identify irregularities in volume or usage changes that may signal suspicious activity
3 requiring further investigation; a licensee shall immediately report irregular activity to
4 the commissioner for further investigation;

5 (2) immediately report to state or federal law enforcement any facts or
6 circumstances related to the operation of a mobile sports gaming system that constitute
7 a violation of state or federal law, any suspicious betting over a threshold set by the
8 licensee and approved by the commissioner, or any betting that would require
9 disclosure under 31 C.F.R. 1021.320;

10 (3) conduct all mobile sports gaming activities in a manner that does
11 not threaten the public health, safety, or welfare of the people of the state;

12 (4) verify the identity of a person opening a sports wagering account in
13 order to ensure that persons placing wagers are real and to monitor risks;

14 (5) keep current all payments and obligations to the commissioner;

15 (6) prevent any person from tampering or interfering with the
16 operation of mobile sports gaming activities;

17 (7) ensure that mobile sports gaming occurs only when using a mobile
18 application or digital platform approved by the commissioner, in a manner consistent
19 with federal law, that uses communication technology to accept wagers originating in
20 the state or in a state or jurisdiction approved by the commissioner;

21 (8) maintain sufficient funds to conduct mobile sports gaming at all
22 times; and

23 (9) maintain daily records of gross receipts and adjusted gross receipts
24 and timely file any additional reports required by the commissioner.

25 **Sec. 05.18.040. Commissioner of revenue to administer chapter; duties of**
26 **commissioner.** (a) The commissioner shall

27 (1) administer and enforce this chapter;

28 (2) keep a record of all licenses issued under this chapter;

29 (3) impose and collect all fees, penalties, and tax on adjusted gross
30 revenue imposed by this chapter.

31 (b) The commissioner may

1 (1) conduct hearings and investigations necessary to administer this
2 chapter;

3 (2) issue a subpoena to compel the attendance of a witness or a
4 subpoena duces tecum for the production of books, records, and other relevant
5 documents necessary for an investigation under this chapter;

6 (3) administer an oath or affirmation to a witness;

7 (4) take appropriate action to enforce this chapter, including filing a
8 petition for injunctive relief, bringing a civil action, or issuing a notice of violation of
9 this chapter or a regulation adopted under this chapter, an order to cease and desist, or
10 a closure order;

11 (5) enter into a mobile sports gaming agreement with another state,
12 territory, jurisdiction, government, or other entity to accept wagers from patrons
13 located outside the state, in compliance with applicable state and federal law; and

14 (6) take all necessary actions to ensure that a mobile sports gaming
15 agreement entered into under this chapter becomes effective.

16 **Sec. 05.18.050. House rules; required disclosures.** (a) A licensee shall adopt
17 house rules for mobile sports gaming transactions. The house rules must specify the
18 amount to be paid on winning wagers, the circumstances under which the licensee will
19 void a bet, treatment of errors, late bets, and related contingencies, and the effect of
20 schedule changes. A licensee shall obtain approval of house rules from the
21 commissioner before starting mobile sports gaming operations.

22 (b) The house rules must be available on the mobile sports gaming system.

23 (c) Each licensee shall include a statement on its mobile sports gaming system
24 providing information on gambling disorders and telephone numbers for resources and
25 entities providing assistance for gambling disorders. The licensee shall display the
26 statement in a manner and place conspicuous to a person gambling on the mobile
27 sports gaming system.

28 **Sec. 05.18.060. Permissible forms of mobile sports gaming.** (a) Permissible
29 forms of mobile sports gaming that may be conducted under a mobile sports gaming
30 license include single-game bets, teaser bets, parlays, over-under, money-line, pools,
31 exchange wagering, in-game wagering, in-play bets, proposition bets, and straight

1 bets.

2 (b) A mobile sports gaming license does not authorize a licensee to conduct
3 fantasy sports contests in which participants assemble teams of athletes or individuals
4 and the winning outcome may depend on the knowledge and skill of the participants
5 but is determined predominantly by the accumulated statistical results of the
6 performance of athletes or individuals participating in the sporting event.

7 **Sec. 05.18.070. Wagers and excluded persons.** (a) A licensee may accept
8 wagers on wagering events through the use of a mobile application, a digital platform,
9 or a person's sports gaming account.

10 (b) A licensee may accept and place layoff wagers by and with other licensees.
11 A licensee placing a layoff wager with another licensee shall inform the other licensee
12 that the wager is being placed by a licensee and disclose the licensee's identity.

13 (c) A person placing a wager must be 21 years of age or older and physically
14 located in the state or in a state, territory, or jurisdiction with which the commissioner
15 has entered into a mobile sports gaming agreement.

16 (d) The commissioner or a licensee may exclude a person from participating in
17 or operating mobile sports gaming. The commissioner shall keep a list of all excluded
18 persons and share the list with each licensee.

19 (e) A licensee, employee of a licensee, or family member of a licensee may
20 not place a wager on any wagering event through the mobile sports gaming system
21 under control of the licensee.

22 **Sec. 05.18.080. Funding wagers.** (a) A licensee may establish a sports gaming
23 account electronically through an approved mobile application or digital platform.

24 (b) A licensee shall permit a person to fund a sports gaming account using
25 (1) a credit or debit card in that person's name;
26 (2) bonuses or promotions;
27 (3) electronic bank transfers from a bank account in that person's
28 name;
29 (4) an online or mobile payment system that supports online money
30 transfers;
31 (5) any other means approved by the commissioner.

1 **Sec. 05.18.090. Mobile sports gaming revenue tax.** (a) Each calendar year,
2 there is levied a tax of 12 percent on the adjusted gross revenue received by a licensee
3 from mobile sports gaming authorized under this chapter. The provisions of AS 43.05
4 and AS 43.10 apply to the enforcement and collection of the tax.

5 (b) On or before the 15th day of each month, a licensee shall complete and
6 submit to the commissioner, by electronic means on a form prescribed by the
7 commissioner, a tax return for each preceding month that includes

8 (1) the gross revenue and adjusted gross revenue received from mobile
9 sports gaming authorized under this chapter for the preceding month;

10 (2) the tax due for which the licensee is liable;

11 (3) any additional information necessary for the computation and
12 collection of the tax on adjusted gross revenue under this section.

13 (c) The tax due as shown on the tax return filed under (b) of this section shall
14 be remitted by electronic means simultaneously with the filing of the return.

15 (d) If the winnings paid to a licensee's patrons exceed the licensee's gross
16 revenue for a month, the licensee may carry forward the negative amount for tax
17 returns filed in subsequent months for up to three years from the date of the negative
18 gross receipt. The negative amount of adjusted gross revenue may not be carried back
19 to an earlier month and tax revenue previously received by the commissioner may not
20 be refunded, unless the licensee surrenders its mobile sports gaming license and the
21 licensee's last return reported negative adjusted gross revenue.

22 (e) A licensee under AS 05.18.010 is exempt from taxes levied and collected
23 on gaming revenue by municipalities.

24 **Sec. 05.18.100. Regulations.** The commissioner shall adopt regulations under
25 AS 44.62 (Administrative Procedure Act) necessary to carry out this chapter. When
26 adopting regulations, the commissioner shall review regulations in other states where
27 mobile sports gaming is conducted and, where practicable, adopt similar regulations.
28 The regulations must include

29 (1) standards and procedures for the issuance, renewal, and revocation
30 of a mobile sports gaming license;

31 (2) the establishment of fees necessary to administer and enforce this

1 chapter;

2 (3) instructions for how wagers on a wagering event or series of
3 wagering events may be placed and accepted;

4 (4) a maximum wager limit on each type of wagering event;

5 (5) the method of accounting that a licensee must use;

6 (6) the types of records a licensee must keep;

7 (7) protections for patrons;

8 (8) promotion of social responsibility and responsible gaming;

9 (9) standards for the adoption of house rules by a licensee and the
10 approval of house rules;

11 (10) minimum design and security requirements for mobile
12 applications and digital platforms for the acceptance of wagers from digital
13 participants, including age verification, physical location in the state, and identity
14 requirements;

15 (11) minimum design, security, testing, and approval requirements for
16 mobile sports gaming systems;

17 (12) standards for involuntary placement on a list of persons who are
18 not authorized to wager on wagering events and procedures for voluntarily requesting
19 one's name to be included on the list or removed from the list;

20 (13) internal control standards for a licensee, including procedures for
21 safeguarding assets and revenues; recording of cash and indebtedness; maintenance of
22 reliable records, accounts and reports of transactions, and operations and events;
23 required audits; and the content of and frequency with which reports of mobile sports
24 gaming activities and revenues shall be made to the commissioner; and

25 (14) other matters the commissioner considers necessary to carry out
26 the purposes of this chapter and to protect the public interest.

27 **Sec. 05.18.110. Violations of chapter; fraudulent acts.** If a person violates
28 this chapter or engages in a fraudulent act, the commissioner may

29 (1) if the person is a licensee, suspend, revoke, or restrict the license of
30 the licensee;

31 (2) if the person is an employee of a licensee, require the suspension or

1 termination of the employee in order for the licensee to continue operations;

2 (3) impose for each violation of this chapter a penalty of not more than
3 \$10,000.

4 **Sec. 05.18.120. Authorized activities a privilege.** The activities specified in
5 AS 05.18.010 may be permitted as a privilege and do not confer a right upon any
6 person to conduct the activities.

7 **Sec. 05.18.190. Definitions.** In this chapter,

8 (1) "adjusted gross revenue" means gross revenue from mobile sports
9 gaming authorized under this chapter, less prizes awarded;

10 (2) "commissioner" means the commissioner of revenue;

11 (3) "gross revenue" means the total amount of wagers received;

12 (4) "licensee" means a person licensed under this chapter;

13 (5) "mobile sports gaming" means the business of accepting wagers on
14 a wagering event, a portion of a wagering event, individual performance statistics of
15 an individual participating in a wagering event, or a combination of performance
16 statistics of individuals participating in a wagering event by a system or method of
17 wagering approved by the commissioner conducted on a mobile application or digital
18 platform that uses communication technology to accept wagers;

19 (6) "professional athletic event" means an event at which two or more
20 contestants participate in an athletic event and one or more contestants receive
21 compensation;

22 (7) "sports gaming account" means a financial account established by a
23 licensee for a patron in which the patron may deposit and withdraw funds for wagers
24 and other authorized purchases, and to which the licensee may credit winnings or
25 other amounts due to a patron;

26 (8) "wager" means a sum of money or thing of value risked on an
27 uncertain occurrence;

28 (9) "wagering event" includes a collegiate, amateur, or professional
29 athletic event, an international athletic event, motor vehicle race, electronic sporting
30 event, or other event permitted by the commissioner; "wagering event" does not
31 include an athletic event in which the majority of the participants are under 18 years of

1 age.

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

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

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

13 (B) playing an amusement device that

14 (i) confers only an immediate right of replay not
15 exchangeable for something of value other than the privilege of
16 immediate replay and does not contain a method or device by which the
17 privilege of immediate replay may be cancelled or revoked;

18 (ii) confers only tickets, credits, allowances, tokens, or
19 anything of value that can be redeemed for toys, candy, or electronic
20 novelties offered at the same facility where the amusement device is
21 located; or

22 (iii) allows a player to manipulate a claw machine or
23 similar device within an enclosure and enables a person to receive
24 merchandise directly from the machine;

25 (C) an activity authorized by the Department of Revenue under
26 AS 05.15 or AS 05.18; or

27 (D) the permanent fund dividend raffle authorized under
28 AS 43.23.230;

29 * **Sec. 4.** AS 12.62.400(a) is amended by adding a new paragraph to read:

30 (21) licensure to operate mobile sports gaming under AS 05.18.010.

31 * **Sec. 5.** AS 43.35 is amended by adding a new section to read:

1 **Sec. 43.35.250. Tax on fantasy sports.** (a) Each calendar year, there is levied
2 a tax of 12 percent on the adjusted gross revenue received by an operator of fantasy
3 sports gaming activities in the state. The provisions of AS 43.05 and AS 43.10 apply
4 to the enforcement and collection of the tax.

5 (b) On or before the 15th day of each month, an operator shall complete and
6 submit to the commissioner, by electronic means on a form prescribed by the
7 commissioner, a tax return for each preceding month that includes

8 (1) the gross revenue and adjusted gross revenue received from fantasy
9 sports gaming activities for the preceding month;

10 (2) the tax due for which the licensee is liable;

11 (3) any additional information necessary for the computation and
12 collection of the tax on adjusted gross revenue under this section.

13 (c) The tax due as shown on the tax return filed under (b) of this section shall
14 be remitted by electronic means simultaneously with the filing of the return.

15 (d) In this section,

16 (1) "adjusted gross revenue" means gross revenue from fantasy sports
17 gaming activities, less prizes awarded;

18 (2) "commissioner" means the commissioner of revenue;

19 (3) "fantasy sports gaming" means fantasy sports contests in which
20 participants assemble teams of athletes or individuals and the winning outcome may
21 depend on the knowledge and skill of the participants but is determined predominantly
22 by the accumulated statistical results of the performance of athletes or individuals
23 participating in the sporting event;

24 (4) "gross revenue" means the total amount of wagers received.

25 * **Sec. 6.** AS 44.64.030(a)(2) is amended to read:

26 (2) AS 05.15 and AS 05.18 (charitable gaming; mobile sports
27 gaming);

28 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 TRANSITION: REGULATIONS. (a) The Department of Revenue may adopt
31 regulations necessary to implement the changes made by this Act. The regulations take effect

1 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law
2 implemented by the regulation.

3 (b) If the Department of Revenue adopts regulations under this section after the
4 effective date of secs. 1 - 6 and 8 of this Act, the regulations may be imposed retroactively to
5 the effective date of secs. 1 - 6 and 8 of this Act.

6 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 TRANSITION: START OF OPERATIONS. The Department of Revenue shall
9 announce to the general public, at least 14 days in advance, when licensees operating under
10 AS 05.18.010, enacted by sec. 2 of this Act, may commence operations. Operations may not
11 commence under this section until the commissioner issues a minimum of three licenses under
12 AS 05.18.010, enacted by sec. 2 of this Act.

13 * **Sec. 9.** Section 7 of this Act takes effect immediately under AS 01.10.070(c).

14 * **Sec. 10.** Except as provided in sec. 9 of this Act, this Act takes effect January 1, 2023.