

ALASKA

I. Definition of Gambling

1. Gambling defined

Gambling, as defined by Alaska Stat. § 11.66.280(2) (2009) 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 the person or someone else will receive something of value in the event of a certain outcome. Gambling is prohibited under Alaska Stat. § 11.66.200 (2009).

2. Gambling does not include the following, as determined by the same statute:

- a. Bona fide business transactions;
- b. Playing an amusement device that; or
 - i. Gives the player an immediate right to replay; and
 - ii. This right to replay cannot be cancelled or revoked by the device
- c. An activity authorized by the Department of Revenue under Alaska Stat. § 05.15 (2009).

3. “The intrinsic nature of gambling is the payment of a price for a chance to obtain that which one seeks but which one could not obtain unless the element of chance were present and unless one had paid a price for the availability of the chance.” State v. Pinball Machs., 404 P.2d 923, 926 (Alaska 1965).

4. Three elements of gambling

There are three elements of gambling: price, chance and prize. State v. Pinball Machs., 404 P.2d 923, 925 (Alaska 1965).

- a. “It is not of the essence of gambling that the element of prize have a monetary market value. If that which one seeks to attain, regardless of whether it has value in money, may be attained by change after payment of a price, then one is gambling.” State v. Pinball Machs., 404 P.2d 923, 927 (Alaska 1965).
- b. Price is also known as “something of value.” Alaska Stat. § 11.66.280(10) (2009) defines this term as: “any money or property; any token, object, or article exchangeable for money or property; and any form of credit or promise directly or indirectly contemplating transfer of money or property or of an interest in money or property or involving extension of a service, entertainment, or privilege of playing at a game or scheme without charge.”
- c. Although the element of entertainment that is derived from playing a game has value, it is not “something of value.” May 22, 2001 Op. Att’y Gen.

- d. A contest can be permitted “when the only prize to be awarded for playing a game (even a game of chance) is something that has no exchange value and modest intrinsic value and is traditionally given to identify the player as a participant or winner, such as a certificate, t-shirt, plaque, or trophy.” May 22, 2001 Op. Att’y Gen.

Dominant factor test

Alaska followed the Dominant Factor test in determining the character of a game until 1978. *Morrow v. State*, 511 P.2d 127, 129 (Alaska 1973). It is defined in Alaska as a doctrine concerns “a scheme constitutes a lottery where chance dominates the distribution of prizes, even though such a distribution is affected to some degree by the exercise of skill or judgment.” *Id.*

Contests of chance and skill

Alaska Stat. § 11.66.280(1) defines a contest of chance as “a contest, game, gaming scheme, or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that the skill of the contestants may also be a factor.” In the alternative, Alaska Stat. § 5.15 (9) (2009) defines a game of skill as “a contest or game in which prizes are awarded for the demonstration of human skills in marksmanship, races, and other athletic events.” Some games of chance are defined in various sections of Alaska Stat. § 05.15.690 (2009) and are listed below:

- a. Animal Classic

Prizes are awarded for the correct guess:

- i. Of which numbered or colored hole on a wheel a rodent enters while the wheel is rotated; or
- ii. Concerning an activity involving chicken manure and a numbered or lettered grid. Alaska Stat. § 05.15.690(2) (2005).

Bingo

The selling of rights to participate, and the awarding of prizes, in the specific kind of game of chance sometimes known as bingo or lotto, played with cards bearing numbers or other designations, five or more in one line, the holder covering numbers when objects similarly numbered are drawn from a receptacle, and the game being won by the person who first covers a previously designated arrangement of numbers on the card. Alaska Stat. § 05.15.690(4) (2005).

Calcutta Pool

A monetary prize is awarded from a pool of wagers on a contest of skill limited to amateur and professional sporting events, other than horse racing, in the state in which those who wager bid at auction for the exclusive right to purchase or wager upon a particular contestant or entrant in the event. Alaska Stat. § 05.15.690(5) (2009).

Canned Salmon Classic

A prize of money is awarded to the closest guess of the total number of cases of canned salmon that will be packed at the Petersburg salmon canneries during a certain period of time and is limited to the canned salmon classic operated and administered by the Petersburg Chamber of Commerce. Alaska Stat. § 05.15.690(6) (2009).

Crane Classic

A prize of money is awarded for the closest guess of the time of arrival of the first sandhill crane to a particular place. Alaska Stat. § 05.15.690(10) (2009).

Deep Freeze Classic

A prize of money is awarded to the closest guess of the date, time, and temperature of the lowest temperature recorded at a specific location in the Delta Junction area on the coldest day during December through February, inclusive, and is limited to the deep freeze classic operated and administered by the Delta Chamber of Commerce. Alaska Stat. § 05.15.690(11) (2009).

Dog Musers' Contest

- i. A contest in which prizes are awarded for the correct guess of the racing time of a dog team or of team position in the race, including prizes to the race contestants; or
- ii. A game of chance, conducted by a dog musers' association, in which a prize of money is awarded for the closest guess or guesses of at least three elements of uncertainty about a sled dog race that cannot be determined before the commencement of the race; of the three elements of uncertainty, one element must be identified as the primary determinant of success, with the other two elements being used as secondary and tertiary determinants

if there are multiple correct guesses of the primary determinant. Alaska Stat. § 05.15.690(15) (2009).

Goose Classic

A prize of money is awarded for the closest guess of the time of the arrival of the first goose in spring to Creamer's Field in Fairbanks or to the Kenai River Flats near Kenai and is limited to the goose classics operated and administered

1. jointly or by either the Fairbanks Montessori Association or the Friends of Creamer's Field; and
2. By the Kenai Chamber of Commerce. Alaska Stat. § 05.15.690(22) (2009).

Ice classic

A prize of money is awarded for the closest guess of the time the ice moves in a body of water or watercourse in the state and is limited to the Nenana and Chena Ice Pools in the same manner as they were conducted in 1959 and previous years. Alaska Stat. § 05.15.690(25) (2009).

King Salmon Classic

A prize of money is awarded for the closest guess of the time of the arrival of the first king salmon of the year at a designated spot on the fish ladder in the Douglas Island Pink and Chum hatchery at Salmon Creek in Juneau and is limited to the king salmon classic operated and administered by the Greater Juneau Chamber of Commerce. Alaska Stat. § 05.15.690(27) (2009).

Mercury Classic

A prize of money is awarded for the closest guess of the time the temperature reaches a certain degree and is limited to the

1. Homer Mercury Classic operated and administered by the Boys and Girls Club of the Kenai Peninsula; and
2. Mercury classic operated and administered by the Greater Fairbanks Chamber of Commerce or jointly, in the discretion of the Greater Fairbanks Chamber of Commerce, by the Greater Fairbanks Chamber of Commerce and the Fairbanks Convention

and Visitors' Bureau. Alaska Stat. § 05.15.690(30) (2009).

Pull-tab Game

- . A card, the face of which is covered to conceal a number, symbol, or set of symbols, is purchased by the participant and where a prize is awarded for a card containing certain numbers or symbols designated in advance and at random. Alaska Stat. § 05.15.690(37) (2009).
- i. “Promotional latex game tickets constituted pull-tab games under this chapter even though an ‘information product’ containing information about an arctic animal was attached to the game piece and free game pieces could be obtained by mailing a request to the company, since the company's primary business was selling the game cards and the tickets had a prize structure much like traditional pull-tab games.” Sept. 2, 1992, Op. Att’y Gen.

Race Classic

- . Prizes are awarded for the closest guess or guesses of the official winning times of a human race or races, and is limited to the Mt. Marathon Race Classic operated and administered by the Seward Chamber of Commerce Convention and Visitors' Bureau. Alaska Stat. § 05.15.690(39) (2009).

Rain Classic

- . A prize is awarded for the closest guess of the amount of precipitation that is recorded at a certain location during a certain length of time. Alaska Stat. § 05.15.690(41) (2009).

Salmon Classic

- . A game of chance, to be operated and administered by the:
 1. United Fishermen of Alaska, in which a prize of money is awarded for the closest guess of the total number of salmon harvested commercially statewide, as determined by the Department of Fish and Game, during a certain period of time;
 2. Seward Chamber of Commerce Convention and Visitors' Bureau, in which prizes are awarded for the closest guess or guesses of the weight of the fish officially designated winner of the Seward Silver Salmon Derby Classic;
 3. Sterling Area Senior Citizens, Inc., in which a prize of money is awarded for the closest guess of the total number of sockeye salmon crossing the counter operated by the Alaska Department of Fish and Game on the Kenai River as of a certain day and time; or

4. Bristol Bay Native Corporation Education Foundation, in which a prize of money is awarded for the closest guess of the total number of salmon harvested commercially in the five Bristol Bay commercial fishing districts between June 1 and September 30, as determined by the Department of Fish and Game. Alaska Stat. § 05.15.690(43) (2009).

Snow Machine Classic

- . A contest in which prizes are awarded for the correct guess of the racing time of a snow machine or of the snow machine's position in the race, including prizes to the race contestants; or
- i. A game of chance where a prize of money is awarded for the closest guess or guesses of at least three elements of uncertainty about a snow machine race that cannot be determined before the commencement of the race; in this paragraph, "race" includes a race solely among snow machines or a race among teams consisting of a combination of a person involved in a contest of skill and a snow machine. Alaska Stat. § 5.15.690(45) (2009).

Lottery

Alaska law also considers lotteries to be illegal. The three elements of a lottery are consideration, chance, and prize. If all of the elements are present, it is a lottery regardless of the intent of the sponsor. *Morrow v. State*, 511 P.2d 127 (Alaska 1973).

A land sale lottery provided for by a municipality's ordinance is not in violation of Alaska's statute prohibiting unlawful gambling. *Gilman v. Martin*, 662 P.2d 120, 124 (Alaska 1983).

Alaska Stat. § 5.15.690(40) (2009) defines "raffle and lottery" as "the selling of rights to participate and the awarding of prizes in a game of chance conducted by the drawing for prizes by lot."

- . "The term 'lottery' . . . does not include an ice pool. 1960 Op. Att'y Gen., No. 8.

Definition of Bookmaking

"Wager slips or pool tickets used in carrying on a scheme involving wagering bookmaking or pool selling could be seized and forfeited as gambling implements under former Alaska Stat. § 11.45.040, 1962 Op. Att'y Gen., No. 22." [found in annotated statutes.]

Specific gaming device definitions

1. **Gambling devices defined:**

- a. Alaska Stat. § 11.66.280(3) (2009) defines gambling device as “any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of unlawful gambling, whether it consists of gambling between persons or gambling by a person involving the playing of a machine.”
 - b. It does not include:
 - i. Lottery tickets, policy slips, or other items used in the playing phases of lottery or policy schemes; or
 - ii. An amusement device.
2. **Pinball Machines**
- a. A pinball machine is a gambling device. *State v. Pinball Machs.*, 404 P.2d 923, 928 (Alaska 1965).
 - b. This is because there is uncertainty in the number of free games that a player can win. If this uncertainty predominates over skill then the dominant factor approach kicks in and it is gambling. *Id.* at 926.
 - c. They can be seized. *Id.* at 928.
3. **Numbers wheel**
- a. Any electronic, mechanical, or other device
 - b. with numbers or other figures
 - c. that are selected randomly and
 - d. used in a game of chance in which the outcome is determined by the number or figure selected by the device
 - i. This does not include
 - 1. Games in which a hamster or other animal is placed in an enclosure with several numbered exit holes and the winner is determined by which hole the hamster or other animal exits,
 - 2. or slot machines
 - 3. Or other devices that operate by insertion of a coin or other object that may entitle the person operating the machine to receive a prize by strict dependence on the element of chance. (Alaska Stat. § 05.15.690(32) (2009)).

In *Pin-Ball Mach v. State*, 371 P.2d 805, 808 (Alaska 1962), the court said that a “gambling implement” and a “gambling device” were synonymous terms.

Gambling implement

A device becomes a gambling implement (or device) when it money may be lost or won as a result of its use. *Pin-Ball Mach. v. State*, 371 P.2d 805, 808 (Alaska 1962).

Non-gambling items as a gambling implements

“An item which has non-gambling uses can be a "gambling implement" subject to forfeiture under the statute, but only if the state proves that it is used as a material

or integral part of the gambling activity.” *One Cocktail Glass v. State*, 565 P.2d 1265, 1270 (Alaska 1977).

Phone card dispensers

- a. “Promoting the sale of pre-paid phone cards through a cash prize sweepstakes, without a gaming permit, is illegal in Alaska. Conducting such an enterprise would be a criminal offense under Alaska Stat. §§ 05.15 and 11.66 (2009). The use of coin operated instruments designed or intended primarily for gaming or gambling is prohibited by Alaska Stat. § 05.15.180(a) (2009). The possession of a gambling device is made criminal by Alaska Stat. § 11.66.260. The ban on coin-operated gaming instruments applies to the phone card dispensers, and they are gaming devices for purposes of Alaska Stat. § 11.66.” Oct. 17, 2000 Op. Att’y Gen.

Electronic Bingo Games

A game played with a mechanical device may be authorized by the department, however a computerized bingo game cannot. This is because Alaska Stat. § 05.15.180(b) (2009) states that "an activity may not be licensed under this chapter unless it existed in the state in substantially the same form and was conducted in substantially the same manner before January 1, 1959." Because electronic bingo games did not exist at that point in time, they can not be licensed. *Malone v. Anchorage Amateur Radio Club, Inc.*, 781 P.2d 576, 576-77 (Alaska 1989).

Electronic Devices in General

“There seems to be little doubt that computerized games which attempt to reproduce traditional gambling (such as video poker or video slot machines) have chance as the dominant factor in their operation. These games rely on computerized number generators and statistical software to reproduce the randomness of the real games, or to manipulate the odds of a particular outcome occurring. **Thus the machine itself controls the outcome, with the player being left with little control over the outcome other than to select the amount of the bet and to take or discard cards (as in video poker or blackjack) in an attempt to improve the odds of winning.** Therefore, in computer games that involve the turn of a playing card, the roll of the dice, the spin of a wheel, or the drawing of lots, chance is clearly material and predominant, even though skill is obviously involved in calculating the odds of winning. In other devices, however, the element of skill may very well be the predominant factor, but chance may nonetheless still be material.” (May 22, 2001 Op. Att’y Gen.)

Bucket Shop Laws

There is no mention of bucket shop laws in case law, statute, or attorney general opinions in Alaska.

Prohibition of Games of Skill

1. In general, because gambling paraphernalia such as cards, dice and poker chips can be concealed on a person's body, police can do a "pat down" search. *Tribble v. State*, No A-3923, 1992 Alaska App. (Alaska Ct. App. Mar. 26, 1992).
2. **Poker / Card Games**

Alaska Stat. § 11.66.200(b) (2009) "exempts 'social game[s],' defined in Alaska Stat. § 11.66.280(9) (2009), from prohibition. The official commentary notes that the exception for social games was one of the few significant reforms in gambling law made by the new code. 1978 Alaska Senate Journal Supp. No. 47 at 112, *reprinted in* Alaska Criminal Code Manual 3-265. Thus, even though the "friendly poker game" falls within the statutory definition of gambling, it is not "unlawful gambling" under Alaska Stat. § 11.66.200(a) (2009), because it is authorized by law." *Gilman v. Martin*, 662 P.2d 120, 130 n.2 (Alaska 1983). See Social Gambling.

3. **Games using Dice**

"A showing that lottery slips are sold in a department store or an industrial plant obviously would not justify a warrant to search every person on the premises, for there would be no probable cause to believe that everyone there was participating in the illegal operation. On the other hand, a showing that a dice game is operated in a manhole or in a barn should suffice, for the reason that the place is so limited and the illegal operation so overt that it is likely that everyone present is a party to the offense." *Betts v. State*, 920 P.2d 763, 768 (Alaska App. 1996).

4. **Billiards**

Not found in case law, statute, or attorney general's opinion.

5. **Bowling**

Not found in case law, statute, or attorney general's opinion.

6. **Darts**

Not found in case law, statute, or attorney general's opinion.

VII. Express Exemptions

It appears that the only gambling allowed is that regulated by the statute providing permits to municipalities and qualified organizations. Alaska Stat. § 05.15.690(38) (2009) defines "qualified organization" as :

[A] bona fide civic or service organization or a bona fide religious, charitable, fraternal, veterans, labor, political, or educational organization, police or fire department and company, dog mushers' association, outboard motor association, or fishing derby or nonprofit trade association in the state, that operates without profits to its members and that has been in existence continually for a period of three years immediately before applying for the license or permit; the organization may be a firm, corporation, company, association, or partnership.

1. **Social Gaming**

Alaska Stat. § 11.66.280(9) (2009) defines a social game as “gambling in a home where no house player, house bank, or house odds exist and where there is no house income from the operation of the game.” “Social games, by definition, may only occur within the home. . . . If the house receives any income from play of the games, the activities are outside the "social game" exclusion.” Nov. 15, 1995 Op. Att’y Gen.

2. **Charity Gaming**

a. Alaska Stat. § 05.15.100(a) (2009) makes charity gaming lawful if a municipality or a qualified organization is issued a permit. This permit permits the conducting of:

i. Bingo

But not electronic bingo games. *Malone v. Anchorage Amateur Radio Club, Inc.*, 781 P.2d 576 (Alaska 1989).

- ii. Raffles and lotteries
- iii. Pull-tab games
- iv. Ice classics
- v. Race classics
- vi. Rain classics
- vii. Goose classics
- viii. Mercury classics
- ix. Deep freeze classics
- x. Canned salmon classics
- xi. Salmon classics
- xii. King salmon classics
- xiii. Dog mushers’ contests
- xiv. Snow machine classics
- xv. Fish derbies
- xvi. Animal classics

- xvii. Crane classics
- xviii. Calcutta pools
- xix. And contests of skill.
- b. Alaska Stat. § 05.15.100(b) was repealed in 1995. “The authority to use ‘playing cards dice, and numbers wheels’ -- essentially casino games -- in charitable gaming has been repealed. Thus, any play of these games outside the home is against the law. Organizations that continue to use casino games in their fundraising efforts would be engaged in illegal activity.” Nov. 15, 1995 Op. Att’y Gen. The section used to allow the use of numbers wheels, dice, and playing cards to qualified organizations or municipalities. This was specifically intended to ban animal use in charitable gaming. Oct. 31, 2002 Op. Att’y Gen.
- c. Alaska Stat. § 05.15.100(c) (2009) outlines who can get a license. As long as it is not for Calcutta pool, a municipality or qualified organization can get a license to conduct an activity. A natural person can get a permit to conduct an activity on behalf of a municipality or qualified organization. Finally, a license can be granted to a municipality or qualified organization to conduct an activity on behalf of another municipality or qualified organization. Alaska Stat. § 05.15.100(d) (2005) deals with multiple-beneficiary permits. Two to six municipalities or qualified organizations can apply jointly for a permit to jointly conduct these activities.
- d. There are some limitations on who can be licensed to engage in these activities. Alaska Stat. § 05.15.105 (2009) prohibits certain people from involvement.
 - ii. Alaska Stat. § 05.15.105(a) (2009) denies a permit to anyone convicted of a violation of the law of Alaska, a violation of another state committed in Alaska, a felony, or any crime anywhere involving theft, dishonesty, or violation of gambling laws. Not only is the person denied a license, but so is their employer or a person who uses this person as a fundraiser consultant—if the person is responsible for operation of the activity, employed in a managerial or supervisory capacity.
 - iii. Alaska Stat. 05.15.105(b) outlines how long a person is disqualified.
 - 1. The following violations terminate after 10 years of the person’s conviction:
 - a. Violation of an Alaska law, a violation of another jurisdiction committed in Alaska, a class B

- felony (other than extortion), a class C felony, or an unclassified felony that is not a crime of dishonesty, theft, or violation of gambling laws.
- b. A violation of a law or ordinance of any jurisdiction involving theft, dishonesty or violation of the gambling laws—and that is not an unclassified felony, a class A felony, or extortion.
 - i. This is only if the department determines that the person is of good character, honesty, and integrity
 - ii. And the person’s involvement in charitable gaming is not against the public interest.

In order to get a permit, Alaska Stat. § 05.15.122(b) (2009) states that there are six requirements.

- . Apply on the form provided by the department,
- i. Pay the \$500 annual fee,
- ii. Disclose the identity of persons employed by the applicant in an managerial or supervisory capacity,
- iii. Show proof of liability insurance,
- iv. If the applicant is a natural person, he or she must pass a test formulated by the department 4 times a year.

Alaska Stat. § 05.15.128 (2009) states the reasons why the department would revoke a license.

Alaska Stat. §§ 05.15.150-05.15.160 (2009) restricts the use of funds from charity gaming.

Chucky Cheese Exemptions

Not found in case law, statute, or attorney general’s opinion

Commercial Gaming

“Purchases of merchandise or services are not considered staking or risking something of value if the normal price has not been increased as a result of the game or contest, and if there is an ongoing market for the merchandise or service when the game or contest is not operating.” May 22, 2001 Op. Att’y Gen. In this context it is not gambling.

Lottery

See 05.15.100(a) (2009) under Charity Gaming

Horseracing

Horse racing is mentioned in Alaska Stat. § 18.35.230(5) (2009). It defines special events as events involving public gathering and includes athletic and sporting events where the public congregates, including but not be limited to dog sled racing, **horse racing**, snowmobile races, skiing events, salmon derbies, and other activities;

It is also mentioned in the discussion of a proposed gaming law, but because it didn't pass, it is not mentioned here.

Other Pari-mutuel (Dog Racing)

See dog mushing

Specific Internet Prohibition

There is no such provision under statute, case law, or attorney general's opinion.

Statute of Anne / Recovery of Debts

No case law, statute, or attorney general opinion covers this topic.

Lawful Commercial Casino Gaming

There is no lawful commercial casino gambling in Alaska. “

In 1990, Ballot Measure 2, an initiative that would have legalized gambling in Alaska, failed by 64.2 percent of the vote.” Nov. 15, 1995 Op. Att'y Gen.

Gaming Crimes and Penalties

Gambling

- . Under Alaska Stat. § 11.66.200(2009) a person commits the offense of gambling if the person engages in unlawful gambling.
- a. It is an affirmative defense to a prosecution under this section that the defendant was a player in a social game.
- b. Gambling is a violation for the first offense. Gambling is a class B misdemeanor for the second and each subsequent offense.

Promoting gambling in the first degree

- . Under Alaska Stat. § 11.66.210(2009) a person commits the crime of promoting gambling in the first degree if the person promotes or profits from an unlawful gambling enterprise.
- a. Promoting gambling in the first degree is a class C felony.
- b. Under Alaska Stat. § 11.66.280(8) (2009):
 - . "promoting gambling" means that a person, acting other than as a player, engages in conduct that materially aids any form of gambling; conduct of this nature includes
 1. Conduct directed toward the
 - a. creation or establishment of the particular gambling activity or

- acquisition or maintenance of premises, paraphernalia, equipment, or apparatus used in the gambling;
 - b. conduct of the playing phases of gambling; or
 - c. arrangement of the financial or recording phase of gambling or toward any other phase of its operation; or
 - 2. Having control or right of control over premises that are used with the defendant's knowledge for purposes of gambling and permitting the gambling to occur or continue without making an effort to prevent its occurrence or continuation;

Promoting gambling in the second degree

- . Under Alaska Stat. § 11.66.220 (2009) a person commits the crime of **promoting gambling** in the second degree if the person promotes or profits from unlawful gambling.
- a. Under the same statute, promoting gambling in the second degree is a class A misdemeanor

Possession of gambling records in the first degree

- . Alaska Stat. § 11.66.230 (2009) a person commits the crime of **possession of gambling records** in the first degree if, with knowledge of its contents or character, the person possesses a gambling record used or intended to be used in the operation or promotion of an unlawful gambling enterprise.
- a. Under the same statute, possession of gambling records in the first degree is a class C felony.

Possession of gambling records in the second degree

- . Under Alaska Stat. § 11.66.240 (2009) a person commits the crime of **possession of gambling records** in the second degree if, with knowledge of its contents or character, the person possesses a gambling record.
- a. Possession of gambling records in the second degree is a class A misdemeanor.
 - . Affirmative Defenses: Alaska Stat. § 11.66.250 (2009)
 - 0. It is an affirmative defense in a prosecution under Alaska Stat. § 11.66.230 (2009) that the gambling record was possessed by the defendant solely as a player.
 - 1. It is an affirmative defense in a prosecution under Alaska Stat. §§ 11.66.230 or 11.66.240 (2009) that the gambling record.

- a. was not used or intended to be used by the defendant in the operation or promotion of unlawful gambling;
- b. was used or intended to be used by the defendant in a social game.

Possession of a gambling device

- . Under Alaska Stat. § 11.66.260 (2009) a person commits the offense of **possession of a gambling device** if, with knowledge of the character of the device, the person manufactures, sells, transports, places, or possesses, or conducts or negotiates a transaction affecting or designed to affect ownership, custody, or use of, a gambling device knowing that the device is used or is to be used in unlawful gambling.
- a. It is an affirmative defense in a prosecution under this section that the gambling device possessed by the defendant was used or intended to be used only in a social game. Alaska Stat. § 11.66.260.
- b. Possession of a gambling device is a class A misdemeanor. Alaska Stat. § 11.66.260.

Property forfeited as a result of violation

- . Under Alaska Stat. § 11.66.270 (2009) if used in violation of Alaska Stat. § 11.66.200 - 11.66.280 (2009), the following property shall be forfeited:
 - . a gambling device or gambling record;
 - i. money, not found on the person, used as a bet or stake;
 - ii. money used as a bet or stake which is found on the person of one who conducts, finances, manages, supervises, directs, or owns all or part of an unlawful gambling enterprise.

Items that cannot be seized from a gambling establishment

In *One Cocktail Glass v. State*, 565 P.2d 1265, 1270 (Alaska 1977) the court found that “various glassware, soft drinks, alcoholic beverages, cigarettes, and furniture” cannot be seized from a gambling establishment.

Regulated Gambling In Alaska

Qualified organizations can engage in regulated gaming if:

- . They have a valid permit
- a. And the proceeds go to provide financial support for municipalities or qualified organizations. Oct. 31, 2002 Op. Att’y Gen.

Authorized Games for CHARITABLE GAMING include:

- . Bingo
- a. Pull-tab
- b. Raffles
- c. Canned salmon classics
- d. All those activities listed in Alaska Stat. § 05.15.100

- e. Activities authorized by the Commissioner of Revenue (Alaska Stat. § 05.15.180(b)) if they existed before 1/1/59, as restricted by Alaska Stat. § 05.15.180(a). Oct. 31, 2002 Op. Att’y Gen.

Authorized Games for CHARITABLE GAMING does not include:

Hamster games or rat races Oct. 31, 2002 Op. Att’y Gen.

Getting a Gambling License in Alaska

There are limitations on activity that is authorized for licensing.

- . For example, Alaska Stat. § 05.15.180(a) (2009) does not authorize the “use of playing cards, dice, roulette wheels, coin-operated instruments or machines, or other objects or instruments used, designed, or intended primarily for gaming or gambling or any other method or implement not expressly authorized by the department.” The limitation in this section on “machines . . . intended primarily for gaming or gambling” pertains to token-operated bingo machines. November 6, 1987, Op. Att’y Gen.
- a. Under Alaska Stat. § 05.15.180(b) (2009), “an activity may not be licensed . . . unless it existed in the state in substantially the same form and was conducted in substantially the same manner before January 1, 1959.” Exceptions to this rule include: “raffles, lotteries, bingo games, pull-tab games, race classics, rain classics, goose classics, mercury classics, deep freeze classics, dog mushers' contests, snow machine classics, canned salmon classics, salmon classics, animal classics, crane classics, Calcutta pools, and king salmon classics.”
- b. In addition, “[a] snow machine classic may not be licensed . . . unless it has been in existence for at least five years before the licensing,” and “an animal classic may not be licensed under this chapter unless it was in existence before November 1, 2002.” Alaska Stat. § 05.15.180(b) (2009).

Further limitations pertain to the amount of money that can be distributed as prizes.

- . Alaska Stat. § 05.15.180(d) (2009) caps the value of door prizes offered or awarded (under the authority of a permit) at \$20,000 a month or \$240,000 a year. These numbers remain the same for such prizes awarded or offered at an authorized “single facility” or “bingo hall.” Alaska Stat. § 05.15.180(e) (2005).
- a. Alaska Stat. § 05.15.180(g) (2009) concerns the maximum amount of prizes that a municipality or qualified organization can offer in a year. In general, one million dollars can be awarded a year for authorized activities. There are exceptions.
- b. If the municipality or qualified organization contracts with a operator to conduct the authorized activities on its behalf, then on \$500,000 can be awarded.

- c. In addition, if a municipality or qualified organization holds a contest of skill, then it must not award more than \$500,000 without incurring a penalty. If it exceeds this amount, it must deduct \$500,000 from the one million dollar maximum.
- d. Finally, where a multiple-beneficiary permit (under Alaska Stat. § 05.15.100(d) (2009)) is concerned, the holder “may award a maximum in prizes each year of \$1,000,000 times the number of holders of the permit for activities authorized under this chapter.”
- e. One final note, bingo is not an “authorized activity” for licensing purposes.

Another limitation concerns age

- . For example, “[a] person under the age of 19 years **may not play** a bingo game.” Alaska Stat. § 05.15.180(f) (2009).
- a. “A **person may not wager (and a permittee may not accept a wager)** on a contestant or entrant in a Calcutta pool unless the contestant or entrant is or are 18 years of age or older.” Alaska Stat. § 05.15.180(h) (2005). Note, this prohibits *anyone* from betting on an 18 year old *contestant*.

Rules for Calcutta Pool: Alaska Stat. § 05.15.180(h) (2009)

- . A Calcutta pool CANNOT be “conducted for elementary, secondary, or post-secondary school sporting events or for youth organization events.”
- a. “Only one Calcutta pool permit may be issued for each event.”
- b. “A Calcutta pool may not be conducted unless the rules for the pool are publicly posted and available to all participants in the pool.”