

(8/15)

STATE OF ALASKA VIDEO LOTTERY LAW  
PROVIDING FOR LIMITED GAMING FACILITIES AND  
ENACTING NEW ARTICLE 5, VIDEO LOTTERY LAW,  
OF CHAPTER 5.15 OF TITLE 5 OF  
THE ALASKA STATUTES

Be it enacted by the People of the State of Alaska:

Section 1. Title: "Alaska Video Lottery Law".

Section 2. Article 5 of Chapter 5.15 of Title 5 of the Alaska Statutes is hereby enacted, to be known and designated as Sections 05.15.700 through 05.15.716, Alaska Statutes, and to read as follows:

05.15.700. **STATEMENT OF PURPOSE.**

It is the purpose of this Article to legalize the ownership and operation of limited gaming facilities at specific geographic locations in the State of Alaska by persons or entities licensed, and subject to the authority and control of, the Alaska Department of Revenue. This Article imposes strict qualifications and operational limitations, and will: (a) protect the permanent fund; (b) create additional employment opportunities; and (c) provide new revenues to both State and local governments that can be used for specific public services such as health care and education to the benefit of all Alaskans.

05.15.701. **DEFINITIONS.** When used in this Article, the following terms shall have these meanings:

(1) "**Acceptable Parcel**" means one or more contiguous parcels of improved or unimproved real property consisting of at least 10 acres in the aggregate.

(2) "**Department**" means the State of Alaska Department of Revenue.

(3) "**Designated VLT Area**" means that portion of the physical area of: (a) an Eligible Facility in which VLT Gaming Operations are or may be conducted by a Licensee in accordance with the provisions of this Article; and (b) a Restricted Eligible Facility in which Restricted Gaming Operations are or may be conducted by a Restricted Licensee in accordance with the provisions of this Article.

(4) "**Director**" means the Commissioner of the Department.

(5) "**Electronic Cards**" includes cards which employ an affixed magnetic storage medium and/or a "smart card" and/or cards containing an integrated circuit chip, but excludes credit cards issued by any Person other than a Licensee or Restricted Licensee.

(6) "Eligible Applicant" means a Person who or which files an application for a License pursuant to Section 05.15.703 hereof and either: (a) owns, in fee simple, an Acceptable Parcel situated within a Gaming District; or (b) holds an option to acquire in fee simple, an Acceptable Parcel situated within a Gaming District; or (c) is the lessee of a lease of an Acceptable Parcel situated within a Gaming District having a term of not less than 10 years.

(7) "Eligible Facility" means the structure(s) situated and/or constructed on an Acceptable Parcel in which VLTs are or will be installed and operated by a Licensee.

(8) "Gaming District" means: (a) the geographic area situated within the Borough of Anchorage, Alaska and described as follows: The West One-Half of the North-East One-Quarter of the Northwest One-Quarter (W ½ of the NE 1/4 of the NW 1/4) of Section One (1), Township Twelve (12) North, Range Four (4) West, Seward Meridian, Anchorage Recording District, Third Judicial District, State of Alaska; and (b) expressly subject to the provisions of clauses (b)(i) and (ii) hereof, such other and further geographic areas within the State of Alaska: (i) designated by the Department pursuant to the provisions of Section 05.15.707(3) (h) hereof; and (ii) thereafter approved by a majority of the registered voters of the borough within which the Gaming District is to be created.

(9) "GLI" means Gaming Laboratories, Inc., a testing and certification company or any similar company which performs testing and certification of VLTs and is authorized by the Department or by any State to perform testing and certification of VLTs or similar devices.

(10) "License" means the authorization issued to an Eligible Applicant by the Department pursuant to the provisions of this Article to: (a) acquire (by purchase, lease or otherwise), own and possess VLT's certified by GLI; and (b) install, maintain and operate VLT's and conduct VLT Gaming Operations at an Eligible Facility.

(11) "Licensee" means an Eligible Applicant issued a License by the Department under this Article.

(12) "Manufacturer" means any Person: (a) who or which manufactures, fabricates, assembles and/or programs VLT's, including parts or portions thereof (collectively "VLT Equipment"); (b) whose VLT Equipment is certified by GLI; and (c) who or which has either: (i) has applied for and been issued a Permit by the Department to sell, lease or otherwise provide VLT Equipment to Licensees, Restricted Licensees or Permittees; or (ii) has been, and is currently licensed in any other State to sell, lease or otherwise provide VLT Equipment to Persons authorized to conduct VLT Gaming Operations in such other State.

(13) "Net VLT Proceeds" means the total of all cash and property received by: (a) a Licensee from VLT Gaming Operations minus the amount of the Payout; and (b) a Restricted Licensee from Restricted VLT Gaming Operations minus the amount of the Payout.

(14) "Payout" means premiums, merchandise, prizes, promotional complimentarys or anything of value provided via a voucher and/or Electronic Card which the player of a VLT may be entitled to receive as a result of the playing of the VLT.

(15) "Permit" means any authorization (other than a License) entitling the recipient to participate in VLT Gaming Operations and/or Restricted VLT Gaming Operations and/or the provision, repair, maintenance and/or servicing of VLT Equipment and related equipment and supplies issued by the Department under the provisions of this Article to a Manufacturer, supplier, Service Technician or any Person (other than a Licensee or a Restricted Licenses or their respective Principals).

(16) "Permittee" means a Person (other than a Licensee or Restricted Licensee) issued a Permit by the Department under the provisions of this Article .

(17) "Person(s)" means individuals, partnerships, limited liability companies, corporations and other legal entities and associations.

(18) "Principal" means any Person who holds or controls directly or indirectly ten (10%) percent or more ownership or economic interest in an applicant for, or holder of, a License, Restricted License or Permit; provided however that no bank, regulated mutual fund, insurance company or other regulated financial institution (collectively "Financial Institution") shall be or be deemed to be a Principal unless it owns a majority of the equity of a Licensee or Restricted Licensee.

(19) "Restricted Acceptable Parcel" means a parcel of improved or unimproved real property: (a) situated in a borough or a Restricted Special District in which both: (i) the Department has authorized Restricted VLT Gaming Operations; and (ii) the operation of Restricted VLT Gaming Operations have been approved by a majority of the registered voters of such borough or Restricted Special District, as the case may be; and (b) at which, as of the Effective Date of this Article, either: (i) the holder of a beverage dispensary license issued pursuant to Section 04.11.090 or an existing club license pursuant to Section 04.11.110, is actually engaged in the business of dispensing alcoholic beverages; or (ii) the holder of an existing charitable gaming license or permit issued pursuant to Section 05.15.100 or an existing operator's license issued pursuant to Section 05.15.122, which permits or licenses existed on the effective date of this Act, is engaged in charitable gaming activities authorized by Article 5.

(20) "Restricted Eligible Applicant" means a Person who or which files an application for a Restricted License pursuant to Section 05.15.703 hereof and: (a) either: (i) owns, in fee simple, a Restricted Acceptable Parcel; or (ii) holds an option to acquire in fee simple a Restricted Acceptable Parcel; or (iii) is the lessee of a lease of an Acceptable Parcel having a term of not less than 2 years; (b) holds a valid permit or license issued pursuant to Sections 05.15.100, 05.15.122 or 4.11.090; and (c) does not hold a valid License issued pursuant to Section 05.15.703(1).

(21) "Restricted Eligible Facility" means the structure situated and/or constructed on a Restricted Acceptable Parcel in which VLT's are or will be installed and operated by a Restricted Licensee.

(22) "Restricted License" means the authorization issued to a Restricted Eligible Applicant by the Department pursuant to the provisions of this Article to: (a) acquire (by purchase, lease or otherwise), own and possess up to (but not exceeding) 5 VLT's certified by GLI; and (b) install, maintain and operate up to (but not exceeding) 5 VLT's and conduct Restricted VLT Gaming Operations at a Restricted Eligible Facility specifically designated therein.

(23) "Restricted Licensee" means a Restricted Eligible Applicant issued a Restricted License by the Department under this Article.

(24) "Restricted VLT Gaming Operations" means the use, operation, offering or conduct of limited VLT gaming consisting of up to (but not exceeding) 5 VLT's by a Restricted Licensee in accordance with the provisions of this Article.

(25) "Restricted Special District" means each of the following Census Areas: Aleutians West; Bethel; Dillingham; Nome; Prince of Wales-Outer Ketchikan; Skagway-Hoonah-Angoon; Southeast Fairbanks; Valdez-Cordova; Wade Hampton; Wrangell-Petersburg; and Yukon-Koyukuk.

(26) "Service Technician" means any Person (other than a Licensee, Restricted Licensee or Manufacturer and/or their respective employees) who: (a) is trained by a Manufacturer or Distributor, or has been certified in a training program approved by the Department and/or a Manufacturer, to perform one or more of the following functions with respect to a VLT: (i) clearing paper or money jams; (ii) changing paper contained within the VLT; (iii) retrieving money from a VLT; or (iv) performing any repairs, parts replacements, maintenance, cleaning, and other servicing to VLT's; and (b) holds a Permit issued by the Department under the provisions of this Article to perform those functions for a Licensee, Restricted Licensee or Permittee.

(27) "VLT" means a lottery machine that performs only the following functions: (a) accepts paper currency, coins or vouchers to enable a player to participate in one or more games; (b) dispenses, at the player's request, a voucher and/or Electronic Card that has printed, physically or electronically imprinted upon it the game identifier and the player's credit balance; (c) shows on a video screen, other electronic display or mechanically, rather than on a paper ticket, the results of each game played; (d) shows on a video screen, other electronic display or mechanically, in an area separate from the game results, the player's credit balance; (e) houses a game platform that is connected to a central system; (f) contains within the common central system pools of electronic scratch-off tickets (unless such machine is mechanical); and (i) such pools are defined by game type, denomination, and the amount bet (unless such machine is mechanical); (ii) each pool, regardless of where its electronic tickets are assigned, has its own hold or par; and (iii) a player plays against other players through the VLT and its designated pool (unless such machine is mechanical); and (g) a central computer system maintains the integrity of the operations of the individual VLT.

(28) "VLT Gaming Operations" means the use, operation, offering, or conduct of VLT gaming by a Licensee in accordance with the provisions of this Article.

(29) "VLT Tax" means an amount equal to 17% of Net VLT Proceeds derived by a Licensee or Restricted Licensee from VLT Gaming Operations or Restricted VLT Gaming Operations, as the case may be.

05.15.702. **REQUIREMENTS FOR VIDEO LOTTERY TERMINALS.** No VLT shall be installed and/or operated in the State of Alaska by a Licensee or Restricted Licensee or otherwise unless such VLT shall:

(1) Be of a class of VLTs which either: (a) have been inspected by the Department or its designee for GLI or other certification and compliance with the provisions of this Article and the rules and regulations adopted, from time to time, by the Department under the authority granted in this Article; or (b) are manufactured or assembled by a Manufacturer;

(2) Have a serial number or other identification number permanently affixed thereto by the manufacturer;

(3) Be connected to a central computer; which central computer may be located on the premises of the Eligible Facility, but in all cases shall be owned and operated by the State of Alaska and maintained as directed by the Department;

(4) Be capable of being continuously monitored, polled and read by the central computer; and

~~(5) Contain an erasable, programmable, read-only memory chip ("EPROM") approved and owned by the State of Alaska containing proprietary data, software and firmware required to operate and to secure the operation of the VLT.~~

05.15.703. **LICENSING; PERMITTING; AND OPERATIONS.** No Person shall acquire, own, operate, provide, distribute, repair or maintain VLTs and/or conduct VLT Gaming Operations unless and until such Person shall be issued a License, Restricted License or Permit, as the case may be, to engage in such activity, by the Department under the provisions of this Article or be exempt from permitting as herein provided.

(1) Upon: (a) receipt by the Department of a sworn application of an Eligible Applicant ("License Application"); and (b) a finding by the Department, after investigation, that: (i) the License Application is complete; (ii) the Eligible Applicant is suitable; (iii) the Eligible Applicant owns, holds an option to acquire or leases an Acceptable Parcel situated in a Gaming District; and (iv) no Licensee (other than the subject Eligible Applicant) has been granted a currently valid License to conduct VLT Gaming Operations in the subject Gaming District, the Department shall issue a License to the Eligible Applicant. The determination by the Department as to whether to issue a License to an Eligible Applicant pursuant to this Section 05.15.703(1) shall be made within 90 days following the submission of the completed License Application by the Eligible Applicant. The License shall entitle the Licensee to acquire (by purchase, lease or otherwise) own, possess, install, operate, repair and maintain VLTs and to conduct VLT Gaming Operations at an Eligible Facility owned or leased by the Licensee and situated in the Gaming District with respect to which his or its License was issued, subject to the requirements of this Article and rules and regulations adopted, from time to time, by the Department pursuant to the authority granted herein. The costs of the suitability investigation undertaken by the Department shall be borne by the Eligible Applicant who or which shall deposit with the Department the sum of \$50,000.00 at the time of the filing of the License Application. Any portion of such deposit not expended by the Department in the conduct of such investigation shall be promptly refunded to the Eligible Applicant.

(2) Each License issued pursuant to Section 05.15.703(1) shall require, as a condition to the Licensee conducting VLT Gaming Operations, that the Licensee:

(a) Maintain continuous suitability;

(b) Permit the Department (including the Executive Director and/or any agent thereof) unrestricted access to the Designated VLT Area at the Eligible Facility and the right of inspection of all VLTs and related VLT Equipment therein situated; and

(c) Make the payments of the VLT Tax to the State of Alaska and the applicable Borough Tax required to be made pursuant to Section 05.15.704; which payments shall be disbursed in accordance with the provisions of Section 05.15.711.

(3) Upon: (a) receipt by the Department of a sworn application for a Permit submitted by a Manufacturer or Service Technician ("Permit Application"), as the case may be; and (b) a finding by the Department, after investigation, that: (i) the Permit Application is complete; and (ii) the applicant is suitable, the Department shall issue the appropriate Permit to the applicant. The Permit shall entitle the Permittee to engage in the activity described in the Permit Application and the Permit subject to the requirements of this Article and rules and regulations adopted, from time to time, by the Department pursuant to the authority granted herein. Each Permit issued pursuant to Section 05.15.703(3) shall require, as a condition to the Permittee conducting the permitted activity, that the Permittee maintain continuous suitability.

(4) All Licenses and Permits shall be issued for a period of ten years and shall be renewed for succeeding ten-year periods upon the submission by the Licensee or Permittee of a completed, sworn application ("Renewal Application"), and a finding by the Department of continued suitability, in both cases, pursuant to Sections 05.15.703 (1) or (3), as the case may be. Provided that the Licensee or Permittee shall file a completed Renewal Application prior to expiration of its current License or Permit, the term of its current License or Permit shall be deemed extended until the later of the disposition by the Department of such Renewal Application and any judicial review of such disposition.

(5) Licenses and Permits shall not be transferable without the prior approval of the Department upon joint application of the transferor and transferee.

(6) Prior to the consummation of a transfer of a License, Permit or interest in a Licensee or Permittee requiring the prior approval of the Department pursuant to Section 05.15.703 (5) hereof: (a) the proposed transferee ("Proposed Transferee") shall file a completed and sworn License Application or Permit Application, as the case may be; and (b) the Department shall promptly conduct a suitability investigation of the Proposed Transferee and promptly advise the Proposed Transferee and the proposed transferor of the results thereof. If the Department finds that the Proposed Transferee is suitable, the Department shall promptly issue its written approval of the proposed transfer as provided for in Section 05.15.703 (5). A determination by the Department that a Proposed Transferee is not suitable shall have no effect on the status or continuity of a License or Permit of the proposed transferor provided the proposed transfer is not consummated. The Proposed Transferee shall reimburse the Department for all costs and expenses incurred by the Department in connection with any such suitability investigation.

(7) If the central computer required pursuant to Section 05.15.702 (3) is located on the premises of the Eligible Facility, the Licensee operating such Eligible Facility shall:

(a) Provide, at no cost or expense to the Department, sufficient space and facilities at the Eligible Facility for the installation and operation of the central computer and the staff of the Department engaged to operate such central computer;

(b) Furnish and install the central computer and software; the cost of which central computer and software ("Central Computer Cost") shall, subject to Section 05.15.703 (7) (c), be advanced by the Licensee; and

(c) Recover the Central Computer Cost in three equal annual installments during each of the first three consecutive years of VLT Gaming Operations at such Eligible Facility solely and exclusively out of the payments required to be made by the Licensee under Section 05.15.704(a).

(8) Upon: (a) receipt by the Department of a sworn application of a Restricted Eligible Applicant ("Restricted License Application"); and (b) a finding by the Department, after investigation, that: (i) the Restricted License Application is complete; (ii) the Restricted Eligible Applicant is suitable; (iii) the Restricted Eligible Applicant owns, holds an option to acquire or leases a Restricted Acceptable Parcel; (iv) the Department shall have authorized the conduct of Restricted VLT Gaming Operations in the borough or Restricted Special District in which the Restricted Applicable Parcel is situated and such authorization has been approved by a majority of the registered voters of such borough or Restricted Special District, as the case may be, the Department shall issue a Restricted License to the Restricted Eligible Applicant. The determination by the Department as to whether to issue a Restricted License to a Restricted Eligible Applicant pursuant to this Section 05.15.703(8) shall be made within 90 days following the submission of the completed Restricted License Application by the Restricted Eligible Applicant. The Restricted License shall entitle the Restricted Licensee to acquire (by purchase, lease or otherwise) own, possess, install, operate, repair and maintain up to (but not in excess of) 5 VLTs and to conduct Restricted VLT Gaming Operations at the Restricted Eligible Facility owned or leased by the Restricted Licensee, subject to the requirements of this Article and rules and regulations adopted, from time to time, by the Department pursuant to the authority granted herein. The costs of the suitability investigation undertaken by the Department shall be borne by the Restricted Eligible Applicant who or which shall deposit with the Department the sum of \$10,000.00 at the time of the filing of the Restricted License Application. Any portion of such deposit not expended by the Department in the conduct of such investigation shall be promptly refunded to the Restricted Eligible Applicant.

(9) Each Restricted License issued pursuant to Section 05.15.703(8) shall require, as a condition to the Restricted Licensee conducting Restricted VLT Gaming Operations, that the Restricted Licensee:

(a) Maintain continuous suitability;

(b) Permit the Department (including the Director and/or any agent thereof) unrestricted access to the Designated VLT Area at the Restricted Eligible Facility and the right of inspection of all VLTs and related VLT Equipment therein situated; and

(c) Make the payments of the VLT Tax to the State of Alaska and the applicable Borough Tax required to be made pursuant to Section 05.15.704; which payments shall be disbursed in accordance with the provisions of Section 05.15.711.

(10) All Restricted Licenses shall be issued for a period of five years and shall be renewed for succeeding five-year periods upon the submission by the Restricted Licensee of a completed, sworn application ("Restricted Renewal Application"), and a finding by the Department of continued suitability pursuant to Section 05.15.703 (8) and is still a Restricted Eligible Applicant. Provided that the Restricted Licensee shall file a completed Restricted Renewal Application prior to expiration of its current Restricted License, the term of its current Restricted License shall be deemed extended until the later of the disposition by the Department of such Restricted Renewal Application and any judicial review of such disposition.

(11) Restricted Licenses shall not be transferable without the prior approval of the Department upon joint application of the transferor and transferee.

(12) Prior to the consummation of a transfer of a Restricted License or interest in a Restricted Licensee requiring the prior approval of the Department pursuant to Section 05.15.703 (11) hereof: ~~(a) the proposed transferee ("Restricted Proposed Transferee") shall file a completed and sworn Restricted License Application;~~ and (b) the Department shall promptly conduct a suitability investigation of the Restricted Proposed Transferee and promptly advise the Restricted Proposed Transferee and the proposed transferor of the results thereof. If the Department finds that the Restricted Proposed Transferee is suitable, the Department shall promptly issue its written approval of the proposed transfer as provided for in Section 05.15.703 (11). A determination by the Department that a Restricted Proposed Transferee is not suitable shall have no effect on the status or continuity of a Restricted License of the proposed transferor provided the proposed transfer is not consummated. The Restricted Proposed Transferee shall reimburse the Department for all costs and expenses incurred by the Department in connection with any such suitability investigation.

(13) If the central computer required pursuant to Section 05.15.702 (3) is located on the premises of the Restricted Eligible Facility, the Restricted Licensee operating such Restricted Eligible Facility shall:

(a) Provide, at no cost or expense to the Department, sufficient space and facilities at the Restricted Eligible Facility for the installation and operation of the central computer and the staff of the Department engaged to operate such central computer;

(b) Furnish and install the central computer and software; the cost of which central computer and software ("Central Computer Cost") shall, subject to Section 05.15.703 (13) (c), be advanced by the Restricted Licensee; and

(c) Recover the Central Computer Cost in three equal annual installments during each of the first three consecutive years of Restricted VLT Gaming Operations at such Restricted Eligible Facility solely and exclusively out of the payments required to be made by the Restricted Licensee under Section 05.15.704(a).

05.15.704. **STATE AND LOCAL LICENSE TAX.** Each Licensee and Restricted Licensee shall pay an annual:



(a) State of Alaska license tax of seventeen (17%) percent upon Net VLT Proceeds (the "License Tax"). The License Tax shall be paid monthly in arrears to the State of Alaska. The Restricted Licensee shall be entitled to reimbursement from the License Tax for sums advanced to the State of Alaska pursuant to the provisions of Section 05.15.703.

(b) License tax of eight (8%) percent upon Net VLT Proceeds (the "Borough Tax") payable to the borough or Restricted Special District, as the case may be, in which the Restricted Eligible Facility is located. The Borough Tax shall be paid monthly in arrears.

05.15.705. SUITABILITY GENERALLY.

(1) No applicant shall be granted a License, Restricted License or Permit under the provisions of this Article unless the applicant has demonstrated to the Department that the applicant is a "suitable" recipient of a License, Restricted License or Permit for which the applicant has applied.

(2) For purposes of this Article, an applicant for a License, Restricted License or Permit is "suitable" and/or has met "suitability" standards if the applicant has satisfied the requirements established by this Article and by the Department by rules and regulations adopted pursuant to this Article, including the requirement that the applicant:

(a) has satisfied the suitability standards provided in Section 05.15.706;

(b) is capable, by virtue of training, education, business experience and/or a combination of the same, of conducting the activity for which the License, Restricted License or Permit is sought;

(c) has demonstrated that the applicant has, or can acquire from others, sufficient funds to renovate and/or construct a Designated VLT Area at the Eligible Facility or Restricted Eligible Facility, as the case may be; acquire and install VLTs and related VLT Equipment and commence and continue VLT Gaming Operations or Restricted VLT Gaming Operations, as the case may be; and

(d) has demonstrated that applicant's Principals are suitable.

(3) A Person: (i) whose application for a License, Restricted License or Permit has been denied; or (ii) whose License, Restricted License or Permit has been issued subject to a condition; or (iii) whose License, Restricted License or Permit has been suspended or revoked; or (iv) against whom a fine has been levied; or (v) who has, as a Principal, been determined by the Department (prior to a hearing) to be "unsuitable", shall have the right to a hearing before the Department with respect to any such denial, condition, suspension, revocation, levy or determination; and such findings, decision and hearing shall be subject to the Administrative Procedures set forth in AS 44.62, including any right to judicial review following such hearing.

05.15.706. SUITABILITY STANDARDS, DISQUALIFICATION AND DIVESTITURE.

(1) For the purposes of this chapter, an applicant for a License, Restricted License, Permit or approval is "suitable" if the applicant is:

(a) A person of good character, honesty, and integrity;

(b) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a present threat to the public interest of the State of Alaska or to the effective regulation and control of VLT Gaming Operations or Restricted VLT Gaming Operations or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in connection with VLT Gaming Operations or Restricted VLT Gaming Operations and the business and financial affairs of the applicant incident thereto;

(c) Capable of conducting and likely to conduct the activities for which the applicant has requested licensing, permitting or approval in accordance with the provisions of this Article and/or the rules and regulations adopted, from time to time, by the Department; and

(d) Not disqualified pursuant to the provisions of Section 05.15.706 (2).

(2) The Department shall have the right to deny, suspend, condition, or revoke a License, Restricted License, Permit or approval of any applicant for a License, Restricted License, Permit or approval upon a specific finding by the Department that the applicant is "unsuitable" on the basis of the following criteria:

(a) Except as set forth in Section 05.15.706 (3), the conviction of, or plea of guilty by, the applicant with respect to any of the following less than ten (10) years prior to the date of the application for License, Restricted License, Permit or requested approval: (i) Any offense punishable by imprisonment of more than one year; (ii) Theft or attempted theft, illegal possession of stolen property, or any offense or attempt involving the misappropriation of property or funds; (iii) Any offense involving fraud or attempted fraud; and (iv) Illegal gambling as defined by the laws or ordinances of any municipality, any parish or county, any state, or of the United States;

(b) There is a current prosecution or pending charge against the applicant in any federal or state jurisdiction for an offense described in Section 05.15.706 (2)(a);

(c) The applicant is not current in filing all applicable personal income tax returns and in the payment of all income taxes, penalties and interest owed to the State of Alaska,, excluding items currently being disputed by the applicant;

(d) The repeated failure by the applicant to provide information and documentation reasonably requested by the Department in order to determine suitability as defined in this Article; provided however that such failure shall not be considered by the Department during the period of any judicial challenge by the applicant with respect to the information requested and/or the confidentiality to be afforded to the same by the Department;

(3) The Department may consider the seriousness and circumstances of any offense, arrest, or conviction in determining suitability in accordance with Section 05.15.705 and evidence of, or relating to, an arrest, summons, charge, or indictment of an applicant, or the dismissal thereof, may be considered by the Department even if the arrest, summons, charge, or indictment results in acquittal, deferred adjudication, probation, parole, or pardon.

(4) Any Person whose License, Restricted License or Permit has been revoked or who has been found "unsuitable" in the State of Alaska is not eligible to obtain any License, Restricted License or Permit pursuant to the provisions of this Article for a period of one year from the date the revocation or finding of unsuitability becomes final beyond right of judicial review.

(5) In the event of a current prosecution of an offense as provided in Section 05.15.706 (2)(b), the Department, where applicable, shall have the discretion to defer a determination on an applicant's suitability pending the outcome of the proceedings provided that if a decision is deferred pending such outcome the Department, where applicable, may take such action as is necessary to protect the public interest.

(6) (a) If the Department finds that a Principal of a Licensee, Restricted Licensee or Permittee or its parent entity is not suitable, and if as a result, the Licensee, Restricted Licensee or Permittee is no longer entitled to engage in the activity licensed or permitted, then and in that event the Department shall, subject to the exercise of the Principal's hearing and review rights under Section 05.15.705(3), propose action necessary to protect the public interest. Where possible, in lieu of an order of revocation or suspension of a License, Restricted License or Permit, the Department shall issue an order of disqualification naming the unsuitable Principal and declaring that such Principal may not: (a) directly or indirectly exercise significant influence over the Licensee, Restricted Licensee or Permittee; (b) directly or indirectly receive dividends or interest on securities of the Licensee, Restricted Licensee or Permittee; (c) directly or indirectly receive remuneration or other economic benefit from the Licensee, Restricted Licensee or Permittee; or (d) continue owning or holding, directly or indirectly, securities of the Licensee, Restricted Licensee or Permittee or remain as a manager, officer, director, or partner of the Licensee, Restricted Licensee or Permittee; and declaring that such Principal shall, within thirty (30) days of the disqualifying order, transfer all securities of the Licensee, Restricted Licensee or Permittee owned by the Principal to the trustee of a blind trust as to which the trustee shall be appointed or approved by the Department (which approval shall not be unreasonably withheld or delayed). The trustee of the blind trust shall have the sole and exclusive rights to exercise any right conferred by or incidental to the securities so transferred to and held in the blind trust, except that upon receipt of instruction from the Principal beneficiary, the trustee shall sell so much of the securities of the Licensee, Restricted Licensee or Permittee held in the blind trust as instructed and remit the net proceeds of the sale to the Principal beneficiary together with any dividends, interest, remuneration or other economic benefit associated therewith.

**05.15.707. DEPARTMENT POWERS AND DUTIES RELATIVE TO VLT GAMING OPERATIONS.** With respect to VLT Gaming Operations:

(1) The Department shall, within 120 days following the Effective Date of this act, adopt, pursuant to the Administrative Procedures Act set forth in AS 44.62 all rules and regulations (collectively "Rules and Regulations") necessary to implement, administer, and regulate VLTs, VLT Gaming Operations and Restricted VLT Gaming Operations as authorized in this Article.

(2) Such Rules and Regulations shall include:

(a) Procedures for applying for, assigning, transferring and/or renewing a License, Restricted License or Permit;

(b) Designation of any technical qualifications (other than suitability as provided for in this Article) which must be possessed by a Manufacturer or Service Technician in order to be eligible to receive and retain a Permit;

(c) A determination of the percentage change in ownership of a Licensee, Restricted Licensee or Permittee that shall be deemed to constitute a transfer of the License, Restricted License or Permit held by such Licensee, Restricted Licensee or Permittee requiring the prior approval of the Department under Section 05.15.703 (6);

(d) Procedures for the counting, collection and deposit of Net VLT Proceeds into a Licensee's or Restricted Licensee's restricted bank account subject to a sweep by the Department for the prior month's VLT Tax;

(e) Methods and rules permitting VLTs to be linked for the offering of progressive payouts;

(f) Procedures for: (i) the accumulation and provision by Licensees, Restricted Licensees and Permittees of specified records, data, information and reports, including financial and income records and reports (collectively "Financial and Operational Materials"); and (ii) the retention of Financial and Operational Materials by past and present Licensees, Restricted Licensees and Permittees, necessary to enable the Department to properly implement and enforce the provisions of this Article;

(g) Requirements establishing minimum physical security standards be observed in Designated VLT Areas;

(h) Requirements establishing standards of maintenance of VLTs and related VLT Equipment; and

(i) Provisions for the revocation and/or suspension of Licenses, Restricted Licenses and Permits, upon post issuance findings of "unsuitability", subject to the rights of Licensees, Restricted Licensees, Permittees and Principals under Section 05.15.705 (3);

(3) The Department may:

(a) Conduct any investigation which the Department determines necessary to fulfill its responsibilities under the provisions of this Article;

(b) Inspect and examine all premises in which Designated VLT Areas are situated and/or where VLTs are manufactured, sold, or repaired;

(c) Inspect VLTs and related VLT Equipment and supplies;

(d) Summarily seize and remove VLTs and related VLT Equipment and supplies from any location where such VLTs and/or VLT Equipment and supplies are not or have not been approved,

operated, or maintained pursuant to this Article and/or the owners or operators thereof do not hold valid Licenses, Restricted Licenses and/or Permits required by this Article;

(e) Deny, revoke, condition, or suspend the License, Restricted License or Permit of any Person who violates any provision of this Article or any of the Rules or Regulations adopted pursuant to the authority granted in this Article;

(f) Take steps necessary to collect fees owed to the Department or the State of Alaska, including commencing and prosecuting appropriate legal actions;

(g) Delegate to the Director and/or cause the Director to perform or exercise any or all of the rights and duties of the Department set forth in Section 05.15.707 (3) (a),(b),(c),(d) and (f);

(h) Create one or more additional Gaming Districts, subject to and conditioned upon the approval of a majority of the registered voters of the borough within which the Gaming District is to be created; provided however that anything in this Article to the contrary notwithstanding, at no time shall the Department: (i) create a Gaming District in any borough having a population of less than 30,000 according to the U.S. Census Bureau; and/or (ii) issue or have authority to issue, nor shall there be issued and outstanding and in full force and effect more than one License to conduct VLT Gaming Operations in and/or with respect to any borough;

(i) Authorize Restricted VLT Gaming Operations to be conducted in any borough or Restricted Special District provided that the operation of Restricted VLT Gaming Operations within such borough or Restricted Special District, as the case may be, is approved by a majority of the registered voters of such borough or Restricted Special District, as the case may be; and

(j) If within 120 days following the Effective Date of this act the Department shall not have adopted the form of License Application to be utilized by an Eligible Applicant seeking the issuance of a License then and in that event and until such time as the Department shall have adopted the form of License Application, the License Application (as defined in Section 05.15.703 hereof) shall consist of: (A) an affidavit executed by the Eligible Applicant (and if an entity, each officer, director, manager and Principal thereof) that to the best knowledge and belief of the affiant the affiant satisfies the suitability standards set forth in Sections 05.15.705(1) and (2) and 05.15.706(1) hereof and is not disqualified for licensing pursuant to the provisions of Section 05.15.706(2) hereof; (B) a balance sheet of the Eligible Applicant certified by the Eligible Applicant (or, if an entity, by the Chief Financial Officer of the Eligible Applicant) that the balance sheet fairly presents the financial condition of the Eligible Applicant as of the date indicated in accordance with the assumptions and criteria set forth in the footnotes to the balance sheet; (C) a written consent executed by the Eligible Applicant (and if an entity, each officer, director, manager and Principal thereof) to the Department undertaking a criminal background investigation; (D) an undertaking executed by the Eligible Applicant to reimburse the Department for the costs of the investigation of the Eligible Applicant; and (E) a certified or bank check made payable to the Department in the amount of \$50,000.00 representing a deposit securing the payment of the costs described in clause (D) hereof.

05.15.708. **DIRECTOR; POWERS AND DUTIES.** The Director shall, upon and subject to the direction of the Department:

(1) Investigate any applicant, Licensee, Restricted Licensee Permittee or Principal for "suitability" and/or violations of the Rules and Regulations and undertake any other investigation, inspection or enforcement action necessary to the thorough and efficient implementation of this Article;

(2) Establish, maintain, and operate the mechanism and equipment necessary to conduct remote polling, monitoring or reading of VLTs, VLT Gaming Operations and Restricted VLT Gaming Operations;

(3) Examine VLTs and related VLT Equipment and/or records related thereto and to VLT Gaming Operations and Restricted VLT Gaming Operations;

(4) Report to the Department any violation of law or Rules or Regulations discovered by the Director; and

(5) Engage, train, supervise and direct such staff as the Director and the Department shall deem necessary or appropriate to enable the Director to perform his duties and obligations under this chapter.

05.15.709. **GAMING DEVICE LIMITATIONS.** Except as otherwise provided by law, no gaming devices other than VLTs shall be present and/or installed and/or operated in the Designated VLT Area of an Eligible Facility.

05.15.710. **PROHIBITED RELATIONSHIPS.**

No person employed by or performing any function on behalf of the Department or the Director may: (a) Be an officer, director, owner, or employee of any Person holding a License, Restricted License or Permit issued by the Department; and/or (b) Have or hold any interest, direct or indirect, in, any Person holding a License, Restricted License or Permit issued by the Department.

05.15.711. **COLLECTION AND DISPOSITION OF FEES; TAXES.**

(1) The Director shall collect all fees, fines, and state taxes imposed or assessed under the provision of this Article and under the Rules and Regulations including, without limitation the VLT Tax and the Borough Tax.

(2) All fees, fines, revenues, taxes, and other monies collected by the Director, including without limitation the VLT Tax but exclusive of the Borough Tax shall be forwarded upon receipt to the Treasurer of the State of Alaska for deposit in its treasury; and the Borough Tax shall be forwarded, upon receipt to the appropriate borough or Restricted Special District, as the case may be.

05.15.712. **PROHIBITING MINORS FROM PLAYING VIDEO LOTTERY TERMINALS; PENALTIES; REVOCATION OF LICENSE.**

(1) No Licensee, Restricted Licensee, Permittee or any agent or employee of either, shall allow a person under the age of twenty-one to play or operate a VLT.

(2) Each Licensee and Restricted Licensee shall report and remit to the Director quarterly in arrears all winnings withheld from customers who are determined to be under the age of twenty-one.

(3) The Department may fine and/or revoke and/or suspend the License, Restricted License or Permit of any Person, who is found by the Department to have willfully committed a violation of Section 05.15.712(1).

**05.15.713. UNAUTHORIZED VIDEO LOTTERY TERMINALS; SKIMMING OF VIDEO LOTTERY TERMINAL PROCEEDS; PENALTIES.**

(1) Except as otherwise permitted by law, any Person who possesses or operates a VLT without holding a current valid License, Restricted License or Permit required by this Article or at any location other than an Eligible Facility shall be subject to a fine of not more than ten thousand dollars per violation.

(2) Any Person who intentionally excludes, or takes any action in an attempt to exclude anything of value from the deposit, counting, collection, or computation of revenues derived from VLT Gaming Operations or Restricted VLT Gaming Operations shall be subject to a fine of not more than ten thousand dollars per violation.

(3) It shall be unlawful to utilize or offer for play any VLT in violation of the provisions of this Article.

**05.15.714. PERMISSIBLE GAMBLING ACTIVITY**

The ownership, installation or operation of video lottery terminals: (a) within Gaming Districts by persons or entities licensed by, and subject to the jurisdiction, authority and control of, the Department; or (b) by Restricted Licensees at Restricted Eligible Facilities shall not constitute conduct prohibited, or rendered illegal, by any of the provisions of the Alaska Statutes including, without limitation, Titles 11 or 12 of the Alaska Statutes.

**05.15.715. ALCOHOLIC BEVERAGES**

Each Eligible Facility and Restricted Eligible Facility shall be subject to all rules and regulations established pursuant to Article 04 of the Alaska Statutes for and with respect to the dispensing of alcoholic beverages.

**05.15.716. EFFECTIVE DATE; AMENDMENT AND SEVERABILITY.**

(a) Effective Date.

This act shall become effective in accordance with the applicable provisions of Section 15.45.220.

(b) Amendment.

In accord with Article XI, Section 6, of the Alaska Constitution, this act may not be repealed by the Legislature within two years after its Effective Date, but it may be amended by the Legislature at any time.

(c) Severability.

If any of the provisions of this Article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

(d) Applicability.

The provisions of Chapter 15 of AS 05 (including without limitation, the provisions of 05.15.150, 05.15.160 and 05.15.180) shall not be applicable to this Article and/or VLT Gaming Operations and/or Restricted VLT Gaming Operations and/or the proceeds, operating expenses and awards thereof .