



LAWS OF ALASKA

2006

Source

Ballot Measure No. 2

AN INITIATIVE

Providing for taxation of certain commercial ship vessels, pertaining to certain vessel activities, and related to ship vessel operations taking place in the marine waters of the State of Alaska; and providing for an effective date.

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

THE INITIATIVE FOLLOWS ON PAGE 1

Date Election Results Certified: September 18, 2006

Actual Effective Date: December 17, 2006

AN INITIATIVE

1 Providing for taxation of certain commercial ship vessels, pertaining to certain vessel
2 activities, and related to ship vessel operations taking place in the marine waters of the State
3 of Alaska; and providing for an effective date.

4

5 * Section 1. AS 43 is amended by adding a new chapter to read:

6 **Chapter 52. Excise Tax on Travel Aboard Commercial Passenger Vessels.**

7 **Sec. 43.52.010. Levy of excise tax on overnight accommodations on**
8 **commercial passenger vessels.** There is imposed an excise tax on travel on
9 commercial passenger vessels providing overnight accommodations in the state's
10 marine water.

11 **Sec. 43.52.020. Rate of tax.** The tax imposed by AS 43.52.010 - 43.52.095 is
12 levied at a rate of \$46 a passenger per voyage.

13 **Sec. 43.52.030. Liability for payment of tax.** A passenger traveling on a
14 commercial passenger vessel providing overnight accommodations in state marine

1 water is liable for the tax imposed by AS 43.52.010 - 43.52.095. The tax shall be
2 collected and is due and payable to the department

3 (1) by the person who provides travel aboard a commercial vessel for
4 which the tax is payable; and

5 (2) in the manner and at the times required by the department by
6 regulation.

7 **Sec. 43.52.040. Disposition of receipts.** (a) The proceeds from the tax on
8 travel on commercial passenger vessels providing overnight accommodations in the
9 state's marine water shall be deposited in a special "commercial vessel passenger tax
10 account" in the general fund. The legislature may appropriate money from this account
11 for the purposes described in (b) and (c) of this section, for state-owned port and
12 harbor facilities, other services to properly provide for vessel or watercraft visits, to
13 enhance the safety and efficiency of interstate and foreign commerce, and such other
14 lawful purposes as determined by the legislature.

15 (b) For each voyage of a commercial passenger vessel providing overnight
16 accommodations, the commissioner shall identify the first five ports of call in the state
17 and the number of passengers on board the vessel at each port of call. Subject to
18 appropriation by the legislature, the commissioner shall distribute to each port of call
19 \$5 per passenger of the tax revenue collected from the tax levied under this chapter. If
20 the port of call is a city located within a borough not otherwise unified with the
21 borough, the commissioner shall, subject to appropriation by the legislature, distribute
22 \$2.50 per passenger to the city and \$2.50 to the borough. Each port of call receiving
23 funds under this section shall use the funds in a manner calculated to improve port and
24 harbor facilities and other services to properly provide for vessel or watercraft visits
25 and to enhance the safety and efficiency of interstate and foreign commerce.

26 (c) A "regional cruise ship impact fund" consisting of 25 percent of the
27 proceeds from the tax on travel aboard commercial passenger vessels providing
28 overnight accommodations in the state's marine water shall be established as sub-
29 account of the funds established in (a) of this section and deposited in the general
30 fund. Subject to appropriation by the legislature and regulations adopted by the
31 Department of Revenue, the commissioner shall distribute funds to municipalities or

1 other governmental entities within the Prince William Sound Region, Southeast
2 Alaska, or any other distinctive region impacted by cruise ship related tourism
3 activities but not entitled to receive funds based on port of call visitation as allowed by
4 (b) of this section, provided that any funds used from this account shall be used to
5 provide services and infrastructure directly related to passenger vessel or watercraft
6 visits or to enhance the safety and efficiency of interstate and foreign commerce
7 related to vessel or watercraft activities.

8 **Sec. 43.52.050. Administration.** (a) The department shall

9 (1) administer this chapter; and

10 (2) collect, supervise, and enforce the collection of taxes due under this
11 chapter and penalties as provided in AS 43.05.

12 (b) The department may adopt regulations necessary for the administration of
13 this chapter.

14 **Sec. 43.52.060. Local levies.** Any municipality, whether home rule or general
15 law, that receives passenger ship fee funds under this chapter may not impose an
16 additional form of tax on travel on commercial passenger vessels engaged in activities
17 involving overnight accommodations for passengers in state marine waters. Any form
18 of tax on travel on commercial passenger vessels engaged in activities involving
19 overnight accommodations for passengers in state marine waters enacted by a
20 municipality, whether home rule or general law, prior to the effective date of this
21 section shall expire one year after enactment of this law if that municipality elects to
22 receive funds under this chapter.

23 **Sec. 43.52.095. Definitions.** In this chapter,

24 (1) "commercial passenger vessel" means a boat or vessel that is used
25 in the common carriage of passengers in commerce; "commercial passenger vessel"
26 does not include

27 (A) vessels with fewer than 250 berths or other overnight
28 accommodations for passengers;

29 (B) noncommercial vessels, warships, and vessels operated by
30 the state, the United States, or a foreign government;

31 (2) "marine water of the state" and "state marine water" have the

1 meaning given to "waters" in AS 46.03.900, except that they include only marine
2 waters;

3 (3) "passenger" means a person whom a common carrier has
4 contracted to carry from one place to another;

5 (4) "voyage" means any trip or itinerary lasting more than 72 hours.

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

7 **Chapter 16. Games of Chance and Contests of Skill on Ships Operating on Waters**
8 **within the Jurisdiction of Alaska.**

9 **Sec. 05.16.010. Gambling activities aboard commercial vessels**
10 **purportedly authorized by federal law.** This chapter applies to the use of playing
11 cards, dice, roulette wheels, coin-operated instruments or machines, or other objects or
12 instruments used, designed, or intended for gaming or gambling used in the waters
13 under the jurisdiction of the State of Alaska on a voyage described in 15 U.S.C.
14 1175(c)(2), and to any other gambling activities taking place aboard large passenger
15 vessels in the state.

16 **Sec. 05.16.020. Tax on gambling activities authorized by AS 05.16.010.**
17 There is imposed on the operator of a gaming or gambling activities aboard large
18 passenger vessels in the state a tax of 33 percent of the adjusted gross income from
19 those activities. "Adjusted gross income" means gross income less prizes awarded and
20 federal and municipal taxes paid or owed on the income. The tax shall be collected
21 and is due and payable to the Department of Revenue in the manner and at the times
22 required by the Department of Revenue.

23 **Sec. 05.16.030. Disposition of receipts.** The proceeds from the tax on
24 gambling operations aboard commercial passenger vessels in the state's marine water
25 shall be deposited in a special "commercial vessel passenger tax account" in the
26 general fund.

27 * **Sec. 3.** AS 43.20.021 is repealed and reenacted to read:

28 **Sec. 43.20.021(a). Internal Revenue Code adopted by reference.** (a)
29 Sections 26 U.S.C. - 1399 and 6001 - 7872 (Internal Revenue Code), as amended, are
30 adopted by reference as a part of this chapter. These portions of the Internal Revenue
31 Code have full force and effect under this chapter unless excepted to or modified by

1 other provisions of this chapter.

2 (b) Nothing in this chapter or in AS 43.19 (Multistate Tax Compact) may be
3 construed as an exception to or modification of 26 U.S.C. 883.

4 (c) The provision in (b) of this section does not apply to commercial passenger
5 vessels as defined in AS 43.52.095.

6 * Sec. 4. AS 46.03.462 is repealed and reenacted to read:

7 **Sec. 46.03.462. Terms and conditions of discharge permits.** (a) An owner or
8 operator may not discharge any treated sewage, graywater, or other wastewater from a
9 large commercial passenger vessel into the marine waters of the state unless the owner
10 or operator obtains a permit under AS 46.03.100, which shall comply with the terms
11 and conditions of vessel discharge requirements specified in (b) of this section.

12 (b) The minimum standard terms and conditions for all discharge permits
13 authorized under this provision require that the owner or operator

14 (1) may not discharge untreated sewage, treated sewage, graywater, or
15 other wastewaters in a manner that violates any applicable effluent limits or standards
16 under state or federal law, including Alaska Water Quality Standards governing
17 pollution at the point of discharge;

18 (2) shall maintain records and provide the reports required under
19 AS 46.03.465(a);

20 (3) shall collect and test samples as required under AS 46.03.465(b)
21 and (d) and provide the reports with respect those samples required by
22 AS 46.03.475(c);

23 (4) shall report discharges in accordance with AS 46.03.475(a);

24 (5) shall allow the department access to the vessel at the time samples
25 are taken under AS 46.03.465 for purposes of taking the samples or for purposes of
26 verifying the integrity of the sampling process; and

27 (6) shall submit records, notices, and reports to the department in
28 accordance with AS 46.03.475(b), (d), and (e).

29 * Sec. 5. AS 46.03.463 is amended to read as follows:

30 **Sec. 46.03.463(d)** is repealed.

31 **Sec. 46.03.463(e)** is repealed and reenacted to read: An owner or operator may

1 not discharge any treated sewage, graywater, or other wastewater from a large
2 commercial passenger vessel into the marine waters of the state unless the owner or
3 operator obtains a permit under AS 46.03.100 and 46.03.462, and provided that the
4 vessel is not in an area where the discharge of treated sewage, graywater, or other
5 wastewaters is otherwise prohibited.

6 **Sec. 46.03.463(g)** is repealed.

7 * **Sec. 6.** AS 46.03.465 is repealed and reenacted to read:

8 **Sec. 46.03.465. Information-gathering requirements.** (a) The owner or
9 operator of a commercial passenger vessel shall maintain daily records related to the
10 period of operation while in the state, detailing the dates, times, and locations, and the
11 volumes and flow rates of any discharges of sewage, graywater, or other waster into
12 the marine waters of the state, provide electronic copies of such records on a monthly
13 basis to the department no later than five days after each calendar month of operation
14 in state waters.

15 (b) While a commercial passenger vessel is present in the marine waters of the
16 state, the owner or operator of the vessel shall provide an hourly report of the vessel's
17 location based on Global Positioning System technology and collect routine samples
18 of the vessel's treated sewage, graywater, and other wastewaters being discharged into
19 marine waters of the state with a sampling technique approved by the department.

20 (c) While a commercial passenger vessel is present in the marine waters of the
21 state, the department, or an independent contractor retained by the department, may
22 collect additional samples of the vessel's treated sewage, graywater, and other
23 wastewaters being discharged into the marine waters of the state.

24 (d) The owner or operator of a vessel required to collect samples under (b) of
25 this section shall ensure that all sampling techniques and frequency of sampling events
26 are approved by the department in a manner sufficient to ensure demonstration of
27 compliance with all discharge requirements under AS 46.03.462.

28 (e) The owner or operator of a commercial passenger vessel shall pay for all
29 reporting, sampling, and testing of samples under this section.

30 (f) If the owner or operator of a commercial passenger vessel has, when
31 complying with another state or federal law that requires substantially equivalent

1 information required under (a), (b), or (d) of this section, the owner or operator shall
2 be considered to be in compliance with that subsection so long as the information is
3 also provided to the department.

4 * **Sec. 7.** AS 46.03 is amended by adding new sections to read:

5 **Sec. 46.03.476. Ocean Rangers.** (a) An owner or operator of a large
6 commercial passenger vessel entering the marine waters of the state is required to have
7 a marine engineer licensed by the United States Coast Guard hired or retained by the
8 department on board the vessel to act as an independent observer for the purpose of
9 monitoring state and federal requirements pertaining to marine discharge and pollution
10 requirements and to insure that passengers, crew, and residents at ports are protected
11 from improper sanitation, health, and safety practices.

12 (b) The licensed marine engineer shall monitor, observe, and record data and
13 information related to the engineering, sanitation, and health related operations of the
14 vessel, including but not limited to registration, reporting, record-keeping, and
15 discharge functions required by state and federal law.

16 (c) Any information recorded or gathered by the licensed marine engineer
17 shall be promptly conveyed to the Alaska Department of Environmental Conservation
18 and the United States Coast Guard on a form or in a manner approved by the
19 commissioner of environmental conservation. The commissioner may share
20 information gathered with other state and federal agencies.

21 **Sec. 46.03.481. Citizens' suits.** (a) Any citizen of the State of Alaska may
22 commence a civil action (1) against an owner or operator of a large passenger vessel
23 alleged to have violated any provision of this chapter, or (2) against the department
24 where there is an alleged failure to perform any act or duty under this chapter which is
25 not discretionary. No civil action may be commenced under this section, however,
26 prior to 45 days after the plaintiff has provided written notice of the intent to sue to the
27 Attorney General of Alaska.

28 (b) Subject to appropriation, as necessary, up to 50 percent and not less than
29 25 percent of any fines, penalties, or other funds recovered as a result of enforcement
30 of this chapter shall be paid to the person or entity, other than the defendant, providing
31 information sufficient to commence an investigation and enforcement of this chapter

1 under this provision.

2 * **Sec. 8.** AS 46.03.480 is amended as follows:

3 **Sec. 46.03.480** is amended by adding a new subsection to read:

4 (d) An additional fee in the amount of \$4 per berth, is imposed on all large
5 commercial passenger vessels, other than vessels operated by the state, for the purpose
6 of operating the Ocean Ranger program established in AS 46.03.476; said program
7 shall be subject to legislative appropriation.

8 **Sec. 46.03.480(d)** shall be repealed and reenacted as AS 46.03.480(e).

9 * **Sec. 9.** AS 46.03.760 is amended as follows:

10 **Sec. 46.03.760** is amended by adding a new subsection to read:

11 (f) An owner, agent, employee, or operator of a commercial passenger vessel,
12 as defined in AS 43.52.095, who falsifies a registration or report required by
13 AS 46.03.460 or 46.03.475 or who violates or causes or permits to be violated a
14 provision of AS 46.03.250 - 46.03.314, 46.03.460 - 46.03.490, AS 46.14, or a
15 regulation, a lawful order of the department, or a permit, approval, or acceptance, or
16 term or condition of a permit, approval, or acceptance issued under AS 46.03.250 -
17 46.03.314, 46.03.460 - 46.03.490, or AS 46.14 is liable, in a civil action, to the state
18 for a sum to be assessed by the court of not less than \$5,000 nor more than \$100,000
19 for the initial violation, nor more than \$10,000 for each day after that on which the
20 violation continues, and that shall reflect, when applicable,

21 (1) reasonable compensation in the nature of liquidated damages for
22 any adverse environmental effects caused by the violation, that shall be determined by
23 the court according to the toxicity, degradability, and dispersal characteristics of the
24 substance discharged, the sensitivity of the receiving environment, and the degree to
25 which the discharge degrades existing environmental quality; for a violation relating to
26 AS 46.14, the court, in making its determination under this paragraph, shall also
27 consider the degree to which the discharge causes harm to persons or property; this
28 paragraph may not be construed to limit the right of parties other than the state to
29 recover for personal injuries or damage to their property;

30 (2) reasonable costs incurred by the state in detection, investigation,
31 and attempted correction of the violation;

1 (3) the economic savings realized by the person in not complying with
2 the requirement for which a violation is charged; and

3 (4) the need for an enhanced civil penalty to deter future
4 noncompliance.

5 Sec. 46.03.760(f) shall be repealed and reenacted as AS 46.03.760(g).

6 * Sec. 10. AS 45.50.474 is repealed and reenacted to read:

7 **Sec. 45.50.474. Required disclosures in promotions and shoreside sales on**
8 **board cruise ships.** (a) A person may not conduct a promotion on board a cruise ship
9 that mentions or features a business in a state port that has paid something of value for
10 the purpose of having the business mentioned, featured, or otherwise promoted, unless
11 the person conducting the promotion clearly and fully discloses orally and in all
12 written materials used in the promotion that the featured businesses have paid to be
13 included in the promotion. All such written notice of disclosure shall be in a type not
14 less than 14-point typeface and in a contrasting color calculated to draw attention to
15 the disclosure.

16 (b) A person or other entity aboard a cruise ship conducting or making a sale
17 of tours, flightseeing operations, or other shoreside activities to be delivered by a
18 vendor or other entity at a future port of call shall disclose, both orally and in writing,
19 the amount of commission or percentage of the total sale retained or returned to the
20 person making the sale. The person or entity aboard a cruise ship making or
21 attempting to make a sale of services or goods provided by a shoreside vendor shall
22 disclose the address and telephone number of the shoreside vendor if asked by a
23 consumer. All such written notice of disclosure shall be in a type not less than 14-
24 point typeface and in a contrasting color calculated to draw attention to the disclosure.

25 (c) Each violation of this section constitutes an unfair trade practice under
26 AS 45.50.471, and shall result in a penalty of not more than \$100 for each violation. In
27 this section, "cruise ship" means a ship that operates at least 48 hours in length for
28 ticketed passengers, provides overnight accommodations and meals for at least 250
29 passengers, is operated by an authorized cruise ship operator, and is certified under the
30 International Convention for the Safety of Life at Sea or otherwise certified by the
31 United States Coast Guard.

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

3 **SEVERABILITY.** It is the intention of the people of Alaska that any portion of this
4 legislation that is declared unlawful shall be stricken in a manner that preserves the remaining
5 portion of the remaining legislation to the maximum extent possible.

6 *** Sec. 12. EFFECTIVE DATE.** This Act takes effect 90 days after enactment.