**INITIATIVE PETITION BILL LANGUAGE
by Petition Sponsors

Petition ID: 03CTAX

FOR AN ACT 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**

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**Proposed Bill:**

**FOR AN ACT 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**

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

**\*Section 1.** AS 43 is amended by adding a new chapter to read:
**Chapter 52. Excise Tax on Travel Aboard Commercial Passenger Vessels.**
**Sec. 42.52.010. Levy of excise tax on overnight accommodations on commercial
passenger vessels.** There is imposed an excise tax on travel on commercial passenger vessels
providing overnight accommodations in the state's marine waters.
**Sec. 43.52.020. Rate of tax.** The tax imposed by AS 43.52.010 - 43.52.095 is levied at a
rate of $46 a passenger per voyage.
**Sec. 43.52.030. Liability for payment of tax.** A passenger traveling on a commercial
passenger vessel providing overnight accommodations in state marine water is liable for the tax
imposed by AS 43.52.010 -- 43.52.095. The tax shall be collected and is due and payable to the
department
(1) ) by the person who provides travel aboard a commercial vessel for which the tax is
payable; and
(2) in the manner and at the times required by the department by regulation.
**Sec. 43.52.040. Disposition of receipts.** (a) (a) The proceeds from the tax on travel on
commercial passenger vessels providing overnight accommodations in the state's marine water
shall be deposited in a special "Commercial Vessel Passenger Tax Account" in the general fund.
The legislature may appropriate money from this account for the purposes described in (b) and
(c) of this section, for state-owned port and harbor facilities, other services to properly provide
for vessel or watercraft visits, to enhance the safety and efficiency of interstate and foreign
commerce and such other lawful purposes as determined by the legislature.
(b) For each voyage of a commercial passenger vessel providing overnight
accommodations, the commissioner shall identify the first five ports of call in the state and the
number of passengers on board the vessel at each port of call. Subject to appropriation by the
legislature, the commissioner shall distribute to each port of call $5 per passenger of the tax
revenue collected from the tax levied under this chapter. If the port of call is a city located within
a borough not otherwise unified with the borough, the commissioner shall, subject to
appropriation by the legislature, distribute $2.50 per passenger to the city and $2.50 to the
borough. Each port of call receiving funds under this section shall use the funds in a manner
calculated to improve port and harbor facilities and other services to properly provide for vessel
or water craft visits and to enhance the safety and efficiency of interstate and foreign commerce.
(c) "Regional Cruise Ship Impact Fund" consisting of 25% of the proceeds from the tax
on travel aboard commercial passenger vessels providing overnight accommodations in the
state's marine water shall be established as sub-account of the funds established in (a), above,
and deposited in the general fund. Subject to appropriation by the legislature and regulations
adopted by the Department of Revenue, the commissioner shall distribute funds to municipalities
or other governmental entities within the Prince William Sound Region, Southeast Alaska or any
other distinctive region impacted by cruise ship related tourism activities but not entitled to
receive funds based on port of call visitation as allowed by (b), above, provided that any funds
used from this account shall be used to provide services and infrastructure directly related to
passenger vessel or water craft visits or to enhance the safety and efficiency of interstate and
foreign commerce related to vessel or water craft activities.
**Sec. 43.52.050. Administration.** (a) The department shall
(1) administer this chapter; and
(2) collect, supervise, and enforce the collection of taxes due under this chapter
and penalties as provided in AS 43.05.
(b) The department may adopt regulations necessary for the administration of this chapter.
**Sec. 43.52.060. Local levies.**Any municipality, whether home rule or general law, that
receives passenger ship fee funds under this chapter may not impose an additional form of tax on
travel on commercial passenger vessels engaged in activities involving overnight
accommodations for passengers in state marine waters. Any form of tax on travel on commercial
passenger vessels engaged in activities involving overnight accommodations for passengers in
state marine waters enacted by a municipality, whether home rule or general law, prior to the
effective date of this legislation shall expire one year after enactment of this law if that
municipality elects to receive funds under this chapter.
**Sec. 43.52.095. Definitions.**In this chapter, (1) "commercial passenger vessel" means a
boat or vessel that is used in the common carriage of passengers in commerce; "commercial
passenger vessel" does not include
(A) vessels with fewer than 250 berths or other overnight accommodations for passengers;
(B) noncommercial vessels, warships, and vessels operated by the state, the United States,
or a foreign government;
(2) "marine water of the state" and "state marine water" have the meaning given to "waters"
in AS 46.03.900, except that they include only marine waters.
(3) "passenger" means a person whom a common carrier has contracted to carry from one
place to another.
(4) "voyage" means any trip or itinerary lasting more than 72 hours.

**\* Sec. 2.** AS 05, is amended by adding a new chapter to read:
**Chapter 16. Games of Chance and Contests of Skill on Ships Operating on Waters Within
the Jurisdiction of Alaska.
Sec. AS 05.16.010. Gambling activities aboard commercial vessels purportedly
authorized by federal law.** This chapter applies to the use of playing cards, dice, roulette
wheels, coin-operated instruments or machines, or other objects or instruments used, designed, or
intended for gaming or gambling used in the waters under the jurisdiction of the State of Alaska
on a voyage described in 15 U.S.C. Section 1175(c)(2), and to any other gambling activities
taking place aboard large passenger vessels in the state.
**Sec. 05.16.020. Tax on gambling activities authorized by AS 05.16.010.** There is
imposed on the operator of a gaming or gambling activities aboard large passenger vessels in the
state a tax of 33% of the adjusted gross income from those activities. "Adjusted gross income"
means gross income less prizes awarded and federal and municipal taxes paid or owed on the
income. The tax shall be collected and is due and payable to the department of revenue in the
manner and at the times required by the department of revenue.
**Sec. 05.16.030. Disposition of receipts.** (a) The proceeds from the tax on gambling
operations aboard commercial passenger vessels in the state's marine water shall be deposited in
a special "Commercial Vessel Passenger Tax Account" in the general fund.

**\*Sec. 3.**AS 43.20.021 is repealed and reenacted as follows:
**Sec. 43.20.021(a). Internal Revenue Code adopted by reference.** (a) Sections 26 U.S.C.
- 1399 and 6001 - 7872 (Internal Revenue Code), as amended, are adopted by reference as a part
of this chapter. These portions of the Internal Revenue Code have full force and effect under this
chapter unless excepted to or modified by other provisions of this chapter.
(b) Nothing in this chapter or in AS 43.19 (Multistate Tax Compact) may be construed as an
exception to or modification of 26 U.S.C. 883.
(c) The provision in (b), above, does not apply to commercial passenger vessels as defined
in AS 43.52.095.

**\*Sec 4.**AS 46.03.462 is repealed and re-enacted as follows:
**Sec. 46.03.462. Terms and conditions of discharge permits.**(a) An owner or operator
may not discharge any treated sewage, graywater, or other wastewater from a large commercial
passenger vessel into the marine waters of the state unless the owner or operator obtains a permit
under AS 46.03.100, which shall comply with the terms and conditions of vessel discharge
requirements specified in (b) of this section.
(b) The minimum standard terms and conditions for all discharge permits authorized under
this provision require that the owner or operator:
(1) may not discharge untreated sewage, treated sewage, graywater, or other wastewaters in
a manner that violates any applicable effluent limits or standards under state or federal law,
including Alaska Water Quality Standards governing pollution at the point of discharge;
(2) shall maintain records and provide the reports required under AS 46.03.465(a);
(3) shall collect and test samples as required under AS 46.03.465(b) and (d) and provide the
reports with respect those samples required by AS 46.03.475(c);
(4) shall report discharges in accordance with AS 46.03.475(a);
(5) shall allow the department access to the vessel at the time samples are taken under AS
46.03.465 for purposes of taking the samples or for purposes of verifying the integrity of the
sampling process; and
(6) shall submit records, notices, and reports to the department in accordance with AS
46.03.475(b), (d), and (e).

**\*Sec. 5.** AS 46.03.463 is amended to read as follows:
**Sec. 46.03.463(d)** is repealed.
**Sec. 46.03.463(e)** is repealed and reenacted to read: An owner or operator may not discharge
any treated sewage, graywater, or other wastewater from a large commercial passenger vessel
into the marine waters of the state unless the owner or operator obtains a permit under
AS 46.03.100 and AS 46.03.462, and provided that the vessel is not in an area where the
discharge of treated sewage, graywater or other wastewaters is otherwise prohibited.
**Sec. 46.03.463(g)** is repealed.

**\*Sec 6. AS 46.03.465** repealed and reenacted to read as follows:
**Sec. 46.03.465. Information-gathering requirements.** (a) The owner or operator of a
commercial passenger vessel shall maintain daily records related to the period of operation while
in the State, detailing the dates, times, and locations, and the volumes and flow rates of any
discharges of sewage, graywater, or other waster into the marine waters of the State, provide
electronic copies of such records on a monthly basis to the department no later than 5 days after
each calendar month of operation in State waters.
(b) while a commercial passenger vessel is present in the marine waters of the State, the
owner or operator of the vessel shall provide an hourly report of the vessel's location based on
Global Positioning System technology and collect routine samples of the vessel's treated sewage,
graywater, and other wastewaters being discharged into marine waters of the State with a
sampling technique approved by the department.
(c) while a commercial passenger vessel is present in the marine waters of the State, the
Department, or an independent contractor retained by the Department, may collect additional
samples of the vessel's treated sewage, graywater, and other wastewaters being discharged into
the marine waters of the State.
(d) the owner or operator of a vessel required to collect samples under (b) of this section
shall ensure that all sampling techniques and frequency of sampling events are approved by the
department in a manner sufficient to ensure demonstration of compliance with all discharge
requirements under AS 46.03.462.
(e) the owner or operator of a commercial passenger vessel shall pay for all reporting,
sampling and testing of samples under this section.
(f) if the owner or operator of a commercial passenger vessel has, when complying with
another state of federal law that requires substantially equivalent information required under (a),
(b), or (d) of this section, the owner or operator shall be considered to be in compliance with that
subsection so long as the information is also provided to the department.

**\*Sec. 7.** AS 46.03 is amended to include new provisions as follows:
**Sec. 46.03.476. Ocean Rangers.** (a) An owner or operator of a large commercial
passenger vessel entering the marine waters of the state is required to have a marine engineer
licensed by the United States Coast Guard hired or retained by the department on board the
vessel to act as an independent observer for the purpose of monitoring state and federal
requirements pertaining to marine discharge and pollution requirements and to insure that
passengers, crew and residents at ports are protected from improper sanitation, health and safety
practices.
(b) The licensed marine engineer shall monitor, observe and record data and information
related to the engineering, sanitation and health related operations of the vessel, including but not
limited to registration, reporting, record keeping and discharge functions required by state and
federal law.
(c) Any information recorded or gathered by the licensed marine engineer shall be promptly
conveyed to the Alaska Department of Environmental Conservation and the United State Coast
Guard on a form or in a manner approved by the Commissioner of Environmental Conservation.
The Commissioner may share information gathered with other state and federal agencies.
**46.03.481. Citizens suits.** (a) Any citizen of the State of Alaska may commence a civil
action (1) against an owner or operator of a large passenger vessel alleged to have violated any
provision of this chapter, or (2) against the department where there is an alleged failure to
perform any act or duty under this chapter which is not discretionary. No civil action may be
commenced under this section, however, prior to 45 days after the plaintiff has provided written
notice of the intent to sue to the Attorney General of Alaska.
(b) Subject to appropriation, as necessary, up to 50% and not less than 25% of any fines,
penalties or other funds recovered as a result of enforcement of this chapter shall be paid to the
person or entity, other than the defendant, providing information sufficient to commence an
investigation and enforcement of this chapter under this provision.

**\*Sec. 8.** AS 46.03.480 is amended as follows:
**Sec. 46.03.480** is amended by adding a new section to read:
(d) An additional fee in the amount of $4.00 per berth, is imposed on all large commercial
passenger vessels, other than vessels operated by the state, for the purpose of operating the
Ocean Ranger program established in AS 46.03.476; said program shall be subject to legislative
appropriation.
**Sec. 46.03.480(d)** shall be repealed and reenacted as 46.03.480(e).

**\*Sec. 9.** As 46.03.760 is amended as follows:
**Sec. AS 46.03.760** is amended by adding a new section to read:
(f) An owner, agent, employee or operator of a commercial passenger vessels as defined in
AS 43.52.095 who falsifies a registration or report required by AS 46.03.460 or 46.03.475 or
who violates or causes or permits to be violated a provision of AS 46.03.250 - 46.03.314,
46.03.460 - 46.03.490, AS 46.14, or a regulation, a lawful order of the department, or a permit,
approval, or acceptance, or term or condition of a permit, approval, or acceptance issued under
AS 46.03.250 - 46.03.314, 46.03.460 - 46.03.490, or AS 46.14 is liable, in a civil action, to the
state for a sum to be assessed by the court of not less than $5000 nor more than $100,000 for the
initial violation, nor more than $10,000 for each day after that on which the violation continues,
and that shall reflect, when applicable,
(1) reasonable compensation in the nature of liquidated damages for any adverse
environmental effects caused by the violation, that shall be determined by the court according to
the toxicity, degradability and dispersal characteristics of the substance discharged, the
sensitivity of the receiving environment, and the degree to which the discharge degrades existing
environmental quality; for a violation relating to AS 46.14, the court, in making its determination
under this paragraph, shall also consider the degree to which the discharge causes harm to
persons or property; this paragraph may not be construed to limit the right of parties other than
the state to recover for personal injuries or damage to their property;
(2) reasonable costs incurred by the state in detection, investigation, and attempted
correction of the violation;
(3) the economic savings realized by the person in not complying with the requirement for
which a violation is charged; and
(4) the need for an enhanced civil penalty to deter future noncompliance.
**Sec. 46.03.760(f)** shall be repealed and reenacted as 46.03.760(g).

**\*Sec. 10.** AS 45.50.474 is repealed and reenacted to read as follows:
**Sec. 45.50.474. Required disclosures in promotions and shore side sales on board
cruise ships.**(a) A person may not conduct a promotion on board a cruise ship that mentions or
features a business in a state port that has paid something of value for the purpose of having the
business mentioned, featured or otherwise promoted, unless the person conducting the promotion
clearly and fully discloses orally and in all written materials used in the promotion that the
featured businesses have paid to be included in the promotion. All such written notice of
disclosure shall be in a type not less than 14-point typeface and in a contrasting color calculated
to draw attention to the disclosure.
(b) A person or other entity aboard a cruise ship conducting or making a sale of tours,
flightseeing operations or other shore-side activities to be delivered by a vendor or other entity at
a future port of call shall disclose, both orally and in writing, the amount of commission or
percentage of the total sale retained or returned to the person making the sale. The person or
entity aboard a cruise ship making or attempting to make a sale of services or goods provided by
a shore-side vendor shall disclose the address and telephone number of the shore side vendor if
asked by a consumer. All such written notice of disclosure shall be in a type not less than 14-
point typeface and in a contrasting color calculated to draw attention to the disclosure.
(c) Each violation of this section constitutes an unfair trade practice under AS 45.50.471,
and shall result in a penalty of not more than $100 for each violation. In this section, "cruise
ship" means a ship that operates at least 48 hours in length for ticketed passengers, provides
overnight accommodations and meals for at least 250 passengers, is operated by an authorized
cruise ship operator, and is certified under the International Convention for the Safety of Life at
Sea or otherwise certified by the United States Coast Guard.

**Section 11. Severability.** It is the intention of the people of Alaska that any portion of this
legislation that is declared unlawful shall be stricken in a manner that preserves the remaining
portion of the remaining legislation to the maximum extent possible.

**Section 12. Effective Date.** This Act takes effect 90 days after enactment.