

**HB 252**

**House Labor & Commerce Committee**

**John Binkley, President**

**Alaska Cruise Association/CLIA Alaska**

# ACA Member Lines

## CLIA Alaska



NORWEGIAN CRUISE LINE®



FREESTYLE CRUISING®



SEVEN SEAS CRUISES



*Above and Beyond All Expectations<sup>SM</sup>*

# Overview of Alaska Cruise Industry

- 12 Cruise lines operating in Alaska (ACA/CLIA Alaska Members)
- 2015 Summary
  - 999,600 passengers
  - 31 Ships
  - 487 Voyages
  - Roughly 2/3 are round trip, 1/3 Cross Gulf

# Visitor Volume

2014-2015 Visitors = 1,946,400



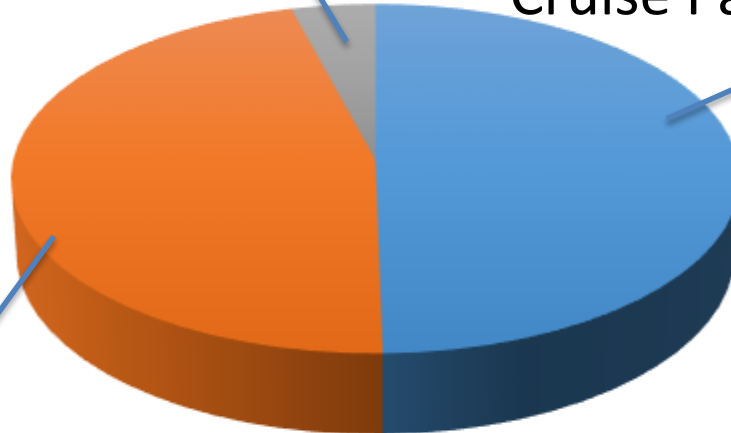
Ferry/Highway 80,400 = 4%



Cruise Passengers 967,500 = 50%



Air 898,500 = 46%



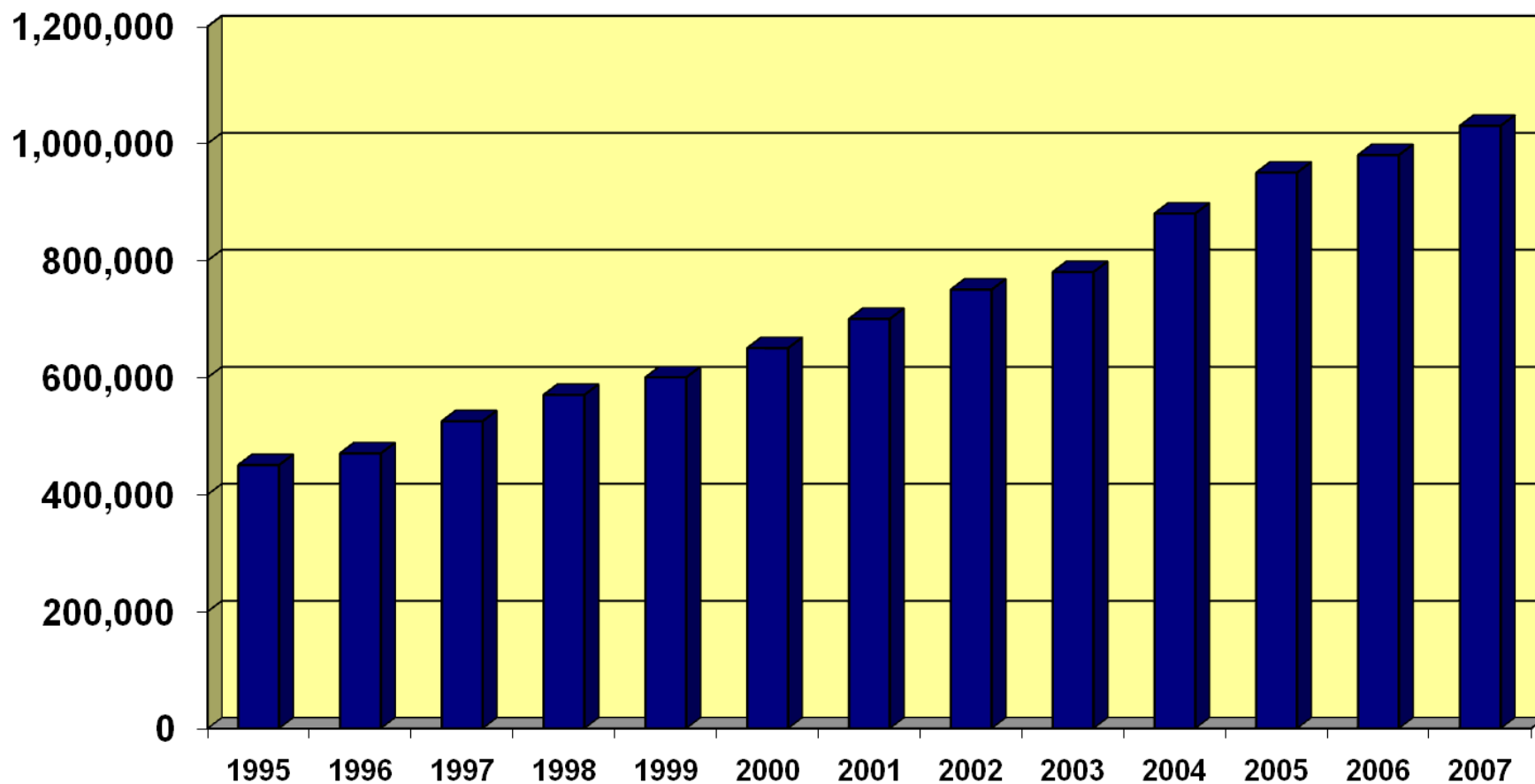
Source: 2014 AVSP Update

# Visitor Industry impacts all regions

Total Visitor Industry Employment, Labor Income & Spending In Alaska,  
March 2010 Study  
(Including direct, indirect and induced effects)

<u>Region</u>	<u>Employment</u>	<u>Labor Income</u>	<u>Spending</u>
Southcentral	17,600	\$514 million	\$1,751 million
Interior	6,200	205 million	519 million
Southeast	10,600	373 million	1,004 million
Southwest	1,500	41 million	115 million
Far North	300	10 million	25 million
<b>Total</b>	<b>36,200</b>	<b>\$1.1 billion</b>	<b>\$ 3.4 billion</b>

# Historical Growth



# What changed in Alaska?

## Alaska Cruise Ship Ballot Measure

- **5 new taxes**

– \$34.50 per passenger entry fee	\$ 34.5 million
– \$11.50 Regional Impact fee (non-port communities)	\$11.5 million
– \$4 per passenger Ocean Ranger fee	\$4 million
– 33% Gaming fee	\$6 million
– State corporate income tax	\$12 million
Total	\$68 million

\*Total does not include \$15 million local entry fees

- **New regulatory requirements**
- **Full time state contractors on ships (Ocean Rangers)**



# Economic Impacts

- Ships were deployed to other destinations.
- Industry filed legal challenge.
- Cruise travel to Alaska declined by **142,000 visitors**.
- An Estimated **\$150 million** in spending was lost from our economy.
- Employment loss over two years—**5,400 jobs in Alaska**.
- Southcentral impact at 30% decline was much higher than statewide figures.



# 2010 – Settlement and Legislation

- Tax reduced from \$46 to \$34.50
- All visitors to pay the same rate.
- Additional offset for head taxes paid locally.
- Funds are to be used for facilities and services for passengers **and** ships.
- Juneau and Ketchikan with existing local taxes now receive an additional \$5 per passenger each (\$10 million cost to the State).

# Legal Issues with HB 252

- Jeopardizes 2010 Settlement Agreement and existing taxes.
- Raises constitutional issues asserted under 2009 litigation.

## **1. Tonnage Clause of the U.S. Constitution**

“No State shall, without the Consent of Congress, lay any duty of Tonnage.”  
Exception for fees that provide a direct service to the vessel.

## **2. Commerce Clause of the U.S. Constitution**

Prohibits states from taking action that the purpose or effect is to discriminate against interstate commerce. Taxes must have a substantial nexus, be fairly apportioned, not discriminate against interstate commerce, and be fairly related to services provided.

## **3. 33 U.S.C. § 5 and Supremacy Clause**

“No taxes, tolls, ... shall be levied upon or collected from any vessel” except for “reasonable fees charged in a fair and equitable bases that (A) are used solely to pay the costs of a service to the vessel, (B) enhance the safety and efficiency of interstate and foreign commerce; **AND** (C) do not impose more than a small burden on interstate or foreign commerce.

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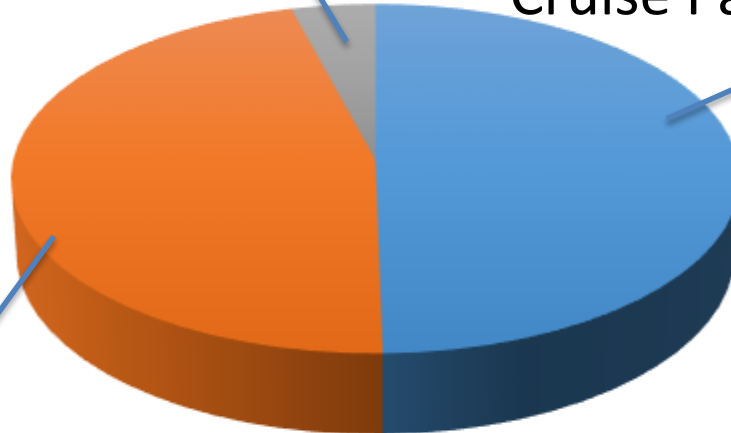
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Source: 2014 AVSP Update

The limitations imposed by the Commerce Clause, Tonnage Clause, and 33 U.S.C. 5(b)(2) should be considered when appropriating and spending money generated by the cruise ship passenger tax.

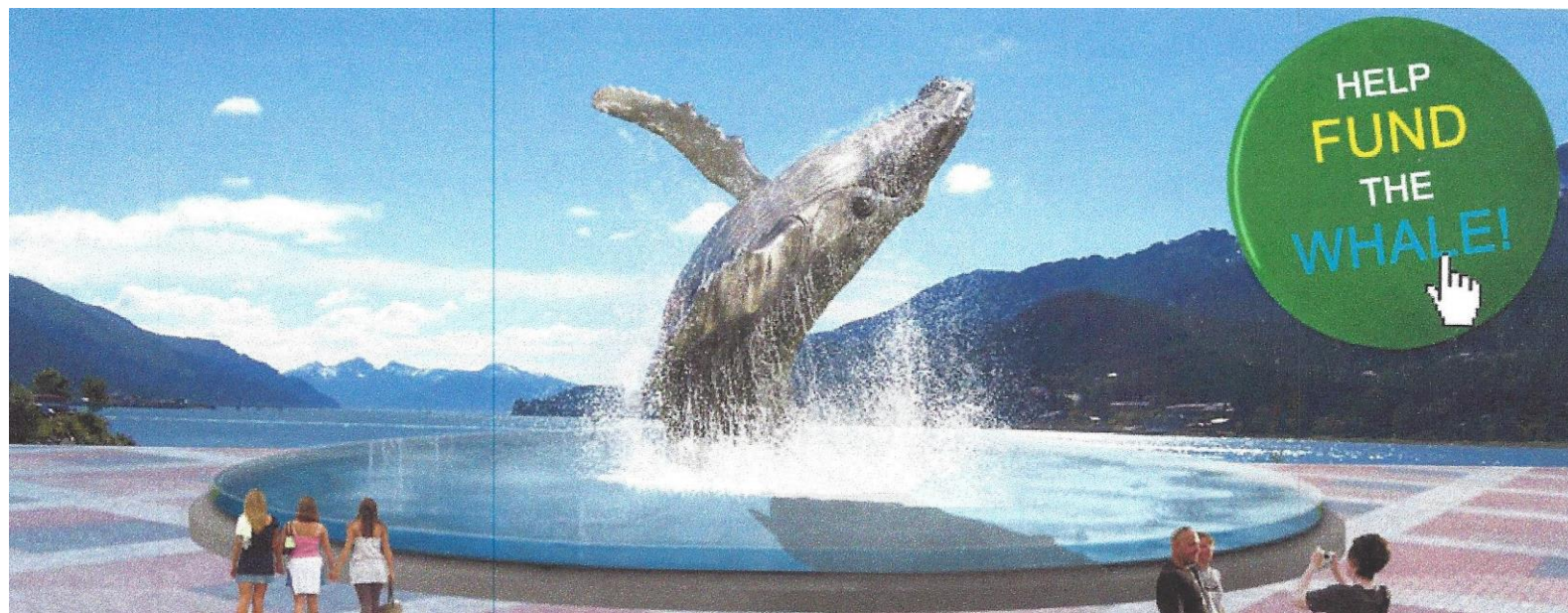
**33 U.S.C. 5(b)(2) and the case law require "a service to the vessel or water craft," not to a vessel or water craft.**

**Legislative Legal Services, September 4, 2009**

# U.S. Constitutional Protections Embodied in State Law

- Amend AS 43.52.230
  - A city or borough that receives a payment under this subsection shall use the funds for port facilities, harbor infrastructure, **and other services provided to the commercial passenger vessels and the passengers on board those vessels.**
- Added AS 43.52.260
  - State is required to review use of taxes to determine compliance with law.

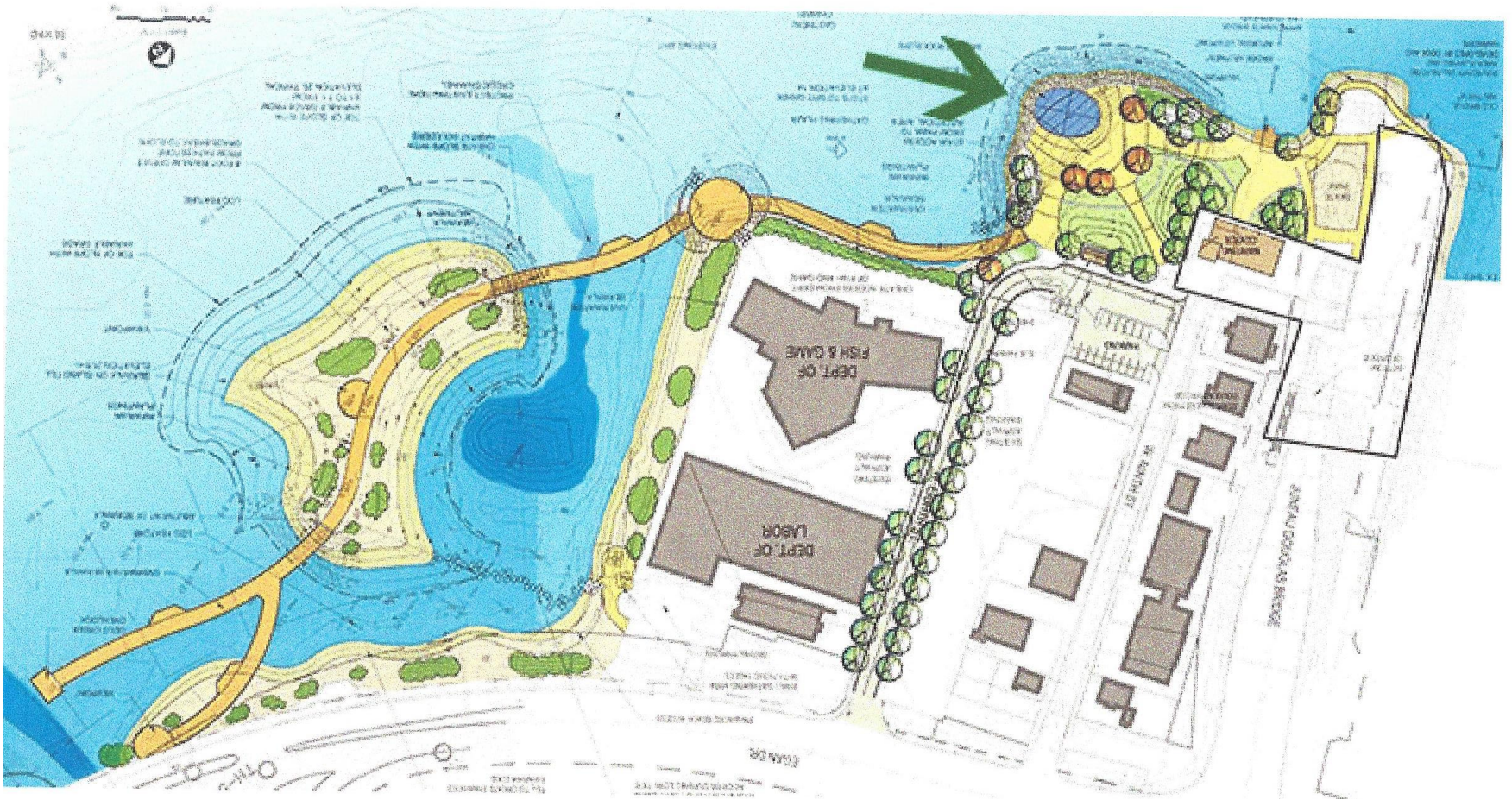




HELP  
**FUND**  
THE  
**WHALE!**



# Juneau spending passenger fees on man-made Island



## Specific Issues with HB 252

1. Bill proposes to repeal a key provision from the legal settlement agreement
  1. State has collected tens of millions as a result of settlement
  2. Ships returned
  3. Alaska jobs returned
2. Jeopardizes existing taxes through Constitutional challenge
  1. Policy on betting existing head tax on a \$15 increase
3. Revenue will not help fill fiscal gap; funds are restricted
  1. No analysis of how existing funds are expended
  2. No plan for how proposed additional restricted funds will be used
  3. No economic analysis of impact on private sector jobs



# Thank You!

