

SENATE CS FOR CS FOR HOUSE BILL NO. 239(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/6/98

Referred: Rules

Sponsor(s): REPRESENTATIVE DAVIS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the liability of motor fuel dealers for payment of tax
2 imposed on certain credit transactions involving motor fuel sales or transfers that
3 become worthless debts or on sales or transfers to persons who declare
4 bankruptcy; and providing for an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 43.40 is amended by adding a new section to read:

7 **Sec. 43.40.025. Handling of tax in sales or transfers of motor fuel in**
8 **certain credit transactions.** (a) This section applies when a dealer who sells or
9 otherwise transfers motor fuel in one or more credit transactions in the state
10 subsequently determines that the person to whom the motor fuel was sold or
11 transferred in the credit transaction

12 (1) has become a debtor under 11 U.S.C. (Federal Bankruptcy Act); or

13 (2) has ceased to pay the person's debts in the ordinary course of

14 business or cannot pay the person's debts as they become due, and the dealer treats the

1 person's debt as a worthless debt or partially worthless debt under 26 U.S.C. 166.

2 (b) A dealer is entitled to a credit in an amount equal to the tax remitted to
3 the department for the tax due on sales or transfers of motor fuel in circumstances
4 described in (a) of this section if

5 (1) under this chapter, the sales or transfers result in a tax liability in
6 the aggregate of \$500 or more; and

7 (2) the dealer has submitted a statement and remitted the tax due on the
8 transactions under AS 43.40.010(c).

9 (c) The dealer may not claim or obtain a refund of the amount of a credit to
10 which the dealer is entitled under (b) of this section. The dealer may apply the credit
11 authorized by (b) of this section against the motor fuel tax payable under this chapter
12 by the dealer to the state

13 (1) during the month in which the dealer provides written notification
14 to the department of the claim of the credit accompanied by a copy of the bankruptcy
15 petition filed by the person to whom the motor fuel was sold or transferred; or

16 (2) in the first month after the dealer reports to the Internal Revenue
17 Service that the debt of the person to whom the motor fuel was sold or transferred is
18 a worthless debt or partially worthless debt by claiming the debt as a deduction under
19 26 U.S.C. 166.

20 (d) If, as to a credit transaction described in (a) of this section for which a
21 credit was claimed and allowed under (b) and (c) of this section, the person to whom
22 the motor fuel was sold or transferred later makes payment to the dealer of

23 (1) all of the debt due on the transactions, the dealer shall remit
24 payment to the department of the tax as required by AS 43.40.010;

25 (2) a portion of the debt due on the transactions, the dealer shall remit
26 payment to the department of a proportional part of the tax as required by
27 AS 43.40.010.

28 (e) The commissioner may not allow a dealer a credit under this section for
29 the credit transaction debt of a person if the dealer claiming the credit has, within the
30 five-year period immediately before making the claim of the credit, previously
31 submitted a statement under (c)(2) of this section that a credit transaction debt of that

1 person is a worthless debt or partially worthless debt under (c)(2) of this section.

2 (f) This section does not apply to a credit transaction by a dealer who sells or
3 otherwise transfers motor fuel in a credit transaction after the dealer knows that the
4 person to whom the motor fuel was sold in the credit transaction has become a debtor
5 under 11 U.S.C. (Federal Bankruptcy Act).

6 (g) In this section, "credit transaction" means a transaction by which the
7 payment for motor fuel subject to the tax levied under this chapter is to be made at a
8 future date.

9 * **Sec. 2.** APPLICABILITY. (a) This Act applies to sales or transfers of motor fuel
10 subject to tax under AS 43.40.010 - 43.40.100 that are made on or after the effective date of
11 this Act.

12 (b) In AS 43.40.025(e), added by sec. 1 of this Act, reference to a previously
13 submitted credit transaction debt means a credit transaction debt that was reported to the
14 Internal Revenue Service as a deduction against income under 26 U.S.C. 166 on or after the
15 effective date of this Act because the credit transaction debt became worthless or partially
16 worthless.

17 * **Sec. 3.** AS 43.40.025, enacted by sec. 1 of this Act, is repealed July 1, 2008.

18 * **Sec. 4.** This Act takes effect July 1, 1998.