

- An annual waiver to the point of discharge requirement is allowed for cruise ships from 2010 to 2013 under two conditions:

1.) DEC commissioner certifies that one or more municipalities are working toward constructing a port of call cruise ship wastewater treatment facility (wastewater facility capable of handling cruise ship discharge) and

2.) cruise ships have the ability to discharge to a shore based facility by 2010

- Legislators may appropriate up to 100% of cruise ship passenger head tax Regional Cruise Ship Impact subfund monies annually to the port of call community wastewater facility being upgraded.
- If after construction of the first facility an additional port facility for discharge is needed on a regular basis then an additional port may be upgraded using the Regional Cruise Ship Impact subfund. Another annual waiver may be provided for three additional years with DEC certification.
- If the wastewater facility (described in #1) is operational, cruise ships must use it.
- If the source of funding for appropriations ceases to exist, the waiver ceases and cruise ships must comply immediately with Alaska Water Quality Standards at the point of discharge.

### **Amendment E.3 Sectional Analysis**

This amendment authorizes the legislature to appropriate funds from the Regional Cruise ship Impact fund annually to upgrade one or more community wastewater facilities in cruise ship ports of call. It allows cruise ships to apply for an annual waiver from meeting water quality standards at the point of discharge for three years as long as the Commissioner of DEC certifies that one or more community wastewater facility is on line, or in the process of being constructed.

**Section 1.** Adds language to the enabling language of the cruise ship head tax to authorize use of head tax funds for planning, designing, building, modifying, constructing or rehabilitating port of call wastewater systems.

**Section 2.** Allows legislature to appropriate funds from the Regional Cruise Ship Impact fund for planning, designing, building, modifying, constructing or rehabilitating port of call wastewater systems.

**Page 2, lines 7-15** Establishes that cruise ships will meet water quality standards at the point of discharge, and provides a waiver to this requirement, found in Section 5.

**Section 4.** Conditional language requiring cruise ships to meet water quality standards at the point of discharge *if* the cruise ship head tax is repealed, or on 2016, whichever comes first.

**Section 5.** Allows cruise ships to have a waiver from point of discharge standard on a year to year basis through 2013 under the conditions that

1. the Commissioner of DEC certifies that one or more shore-based cruise ship wastewater treatment facilities are operational or in the process of being constructed.
2. while present in the community with an operational facility, the cruise ship must use this, or treat the wastewater to standards on board.

The waiver may be extended for additional one year periods through 2016 if the Commissioner certifies that an additional shore based treatment facility is necessary, and in the process of being constructed or operated.

**Section 6.** Conditional language repealing waiver if head tax is repealed, or on 2016, whichever comes first.

**Section 7.** Effective date for regulations.

**Section 8.** Notice requirement should head tax be repealed.

**Section 9.** Effective date on conditional language stating that the waiver is repealed if head tax is repealed or on 2016, whichever comes first.

**Section 10.** 2010 Effective date on waiver provision

**Section 11.** Immediate effective date for modification of cruise ship head tax statute.

**AMENDMENT**

OFFERED IN THE HOUSE  
TO: CSHB 134(CRA)

1 Page 1, line 2:

2 Delete "waste water;"

3 Insert "wastewater; relating to wastewater, sewage, and treatment projects in  
4 certain communities, including shore-based wastewater treatment facilities that serve  
5 commercial passenger vessels; and relating to the regional cruise ship impact fund;"  
6

7 Page 1, following line 4:

8 Insert new bill sections to read:

9 **"\* Section 1.** AS 43.52.230(a) is amended to read:

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

18 **\* Sec. 2.** AS 43.52.230 is amended by adding a new subsection to read:

19 (d) The legislature may appropriate money deposited into the regional cruise  
20 ship impact fund to the Department of Environmental Conservation for planning,  
21 designing, building, modifying, constructing, or rehabilitating wastewater and sewage  
22 systems and treatment works in a port of call in which commercial passenger vessels  
23 load or unload passengers to ensure that treated wastewater generated by commercial

1 passenger vessels, when combined with untreated sewage, treated sewage, graywater,  
 2 and other wastewater generated by the community, is not discharged in a manner that  
 3 violates any applicable effluent limits or standards under state or federal law,  
 4 including Alaska Water Quality Standards governing pollution at the point of  
 5 discharge."  
 6

7 Renumber the following bill sections accordingly.  
 8

9 Page 1, line 6:

10 Delete "The"

11 Insert "Except as provided under AS 46.03.464(a), the [THE]"  
 12

13 Page 1, line 11:

14 Delete "[AT THE POINT OF DISCHARGE]"

15 Insert "at the point of discharge"  
 16

17 Page 2, line 9:

18 Delete all material and insert:

19 "\*\* Sec. 4. AS 46.03.462(b), as amended by sec. 3 of this Act, is amended to read:

20 (b) The [EXCEPT AS PROVIDED UNDER AS 46.03.464(a), THE]  
 21 minimum standard terms and conditions for all discharge permits authorized under this  
 22 section require that the owner or operator

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

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

29 (3) shall collect and test samples as required under AS 46.03.465(b)  
 30 and (d) and provide the reports with respect those samples required by  
 31 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 is amended by adding a new section to read:

**Sec. 46.03.464. Shore-based wastewater treatment facilities.** (a)

Notwithstanding AS 46.03.462(b)(1), the Department of Environmental Conservation may provide an annual waiver from the point of discharge requirement imposed under that paragraph for a discharge of treated wastewater from a commercial passenger vessel that is capable of discharging treated wastewater to a shore-based wastewater treatment facility. The waiver may be extended for additional one-year periods through December 31, 2013, if

(1) the commissioner certifies that one or more shore-based wastewater treatment facilities are operational or in the process of being constructed; and

(2) as a condition of the waiver, while present in a community with an operational shore-based wastewater treatment facility to load or unload passengers, the vessel

(A) discharges its treated wastewater to the facility; or

(B) complies with the terms and conditions of AS 46.03.462(b)(1), notwithstanding the waiver provided under this section.

(b) An annual waiver granted under (a) of this section may be extended after December 31, 2013, for additional one-year periods if

(1) the commissioner, after consultation with representatives of the cruise ship industry and communities in which commercial passenger vessels load or unload passengers, certifies that additional shore-based wastewater treatment facilities are

(A) necessary; and

(B) in the process of being constructed or operated; and

(2) as a condition of the waiver, while present in a community with an operational shore-based wastewater treatment facility to load or unload passengers, the vessel

(A) discharges its treated wastewater to the facility;

(B) complies with the terms and conditions of AS 46.03.462(b)(1), notwithstanding the waiver provided under this section.

(c) In this section, "shore-based wastewater treatment facility" means a wastewater treatment facility located in a community in which commercial passenger vessels load or unload passengers that

(1) does not violate any applicable effluent limits or standards under state or federal law, including Alaska Water Quality Standards governing pollution at the point of discharge; and

(2) is capable of receiving discharges of treated wastewater from commercial passenger vessels.

**\* Sec. 6.** AS 46.03.464 is repealed.

**\* Sec. 7. TRANSITION: REGULATIONS.** The Department of Environmental Conservation may proceed to adopt regulations to implement its responsibilities under this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutes implemented by the regulations.

**\* Sec. 8.** The uncoded law of the State of Alaska is amended by adding a new section to read:

NOTICE. If the excise tax is found unconstitutional as described in sec. 9(1) of this Act, the attorney general shall promptly notify the revisor of statutes, the commissioner of environmental conservation, and the commissioner of revenue of the date that the excise tax was found unconstitutional.

**\* Sec. 9.** Sections 4 and 6 of this Act take effect on the earliest date of the following:

(1) a court of competent jurisdiction enters a final judgment on the merits that is no longer subject to appeal or petition for certiorari holding that the excise tax levied on travel aboard commercial passenger vessels under AS 43.52.200 is unconstitutional;

(2) AS 43.52.200 is repealed; or

(3) December 31, 2016.

1     \* **Sec. 10.** Sections 3 and 5 of this Act take effect January 1, 2010.

2     \* **Sec. 11.** Except as provided in secs. 9 and 10 of this Act, this Act takes effect immediately  
3     under AS 01.10.070(c)."