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Nauman
2/8/16

CS FOR SENATE BILL NO. 132()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act relating to the motor fuel tax; and providing for an effective date."

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

*** Section 1.** AS 43.40.010(a) is amended to read:

(a) In addition to the surcharge levied under AS 43.40.005,

(1) if the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the previous calendar year is more than \$85, there is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that **the tax on**

(A) [(1) THE TAX ON] aviation gasoline is four and seven-tenths cents a gallon;

(B) [(2) THE TAX ON] motor fuel used in and on watercraft of all descriptions is five cents a gallon;

(C) [(3) THE TAX ON] all aviation fuel other than gasoline is three and two-tenths cents a gallon; and

(D) [(4) THE TAX RATE ON] motor fuel that is blended with

alcohol is the same tax rate a gallon as other motor fuel; however, in an area and during the months in which fuel containing alcohol is required to be sold, transferred, or used in an effort to attain air quality standards for carbon monoxide as required by federal or state law or regulation, the tax rate on motor fuel that is blended with alcohol is six cents a gallon less than the tax on other motor fuel not described in (A) - (C) [(1) - (3)] of this paragraph; or

(2) if the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the previous calendar year is less than or equal to \$85, there is levied a tax of 16 cents a gallon on all motor fuel sold or otherwise transferred within the state, except that the tax on

(A) aviation gasoline is 10 cents a gallon;

(B) motor fuel used in and on watercraft of all descriptions is 10 cents a gallon;

(C) all aviation fuel other than gasoline is 10 cents a gallon;

and

(D) motor fuel that is blended with alcohol is the same tax rate a gallon as other motor fuel; however, in an area and during the months in which fuel containing alcohol is required to be sold, transferred, or used in an effort to attain air quality standards for carbon monoxide as required by federal or state law or regulation, the tax rate on motor fuel that is blended with alcohol is six cents a gallon less than the tax on other motor fuel not described in (A) - (C) of this paragraph

[SUBSECTION].

* **Sec. 2.** AS 43.40.010(a), as amended by sec. 1 of this Act, is amended to read:

(a) In addition to the surcharge levied under AS 43.40.005,[(1) IF THE AVERAGE PRICE PER BARREL FOR ALASKA NORTH SLOPE CRUDE OIL FOR SALE ON THE UNITED STATES WEST COAST DURING THE PREVIOUS CALENDAR YEAR IS MORE THAN \$85,] there is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that the tax on

(1) [(A)] aviation gasoline is four and seven-tenths cents a gallon;

1 (2) [(B)] motor fuel used in and on watercraft of all descriptions is five
2 cents a gallon;

3 (3) [(C)] all aviation fuel other than gasoline is three and two-tenths
4 cents a gallon; and

5 (4) [(D)] motor fuel that is blended with alcohol is the same tax rate a
6 gallon as other motor fuel; however, in an area and during the months in which fuel
7 containing alcohol is required to be sold, transferred, or used in an effort to attain air
8 quality standards for carbon monoxide as required by federal or state law or
9 regulation, the tax rate on motor fuel that is blended with alcohol is six cents a gallon
10 less than the tax on other motor fuel not described in (1) - (3) [(A) - (C)] of this
11 subsection [PARAGRAPH; OR

12 (2) IF THE AVERAGE PRICE PER BARREL FOR ALASKA
13 NORTH SLOPE CRUDE OIL FOR SALE ON THE UNITED STATES WEST
14 COAST DURING THE PREVIOUS CALENDAR YEAR IS LESS THAN OR
15 EQUAL TO \$85, THERE IS LEVIED A TAX OF 16 CENTS A GALLON ON ALL
16 MOTOR FUEL SOLD OR OTHERWISE TRANSFERRED WITHIN THE STATE,
17 EXCEPT THAT THE TAX ON

18 (A) AVIATION GASOLINE IS 10 CENTS A GALLON;

19 (B) MOTOR FUEL USED IN AND ON WATERCRAFT OF
20 ALL DESCRIPTIONS IS 10 CENTS A GALLON;

21 (C) ALL AVIATION FUEL OTHER THAN GASOLINE IS
22 10 CENTS A GALLON; AND

23 (D) MOTOR FUEL THAT IS BLENDED WITH ALCOHOL
24 IS THE SAME TAX RATE A GALLON AS OTHER MOTOR FUEL;
25 HOWEVER, IN AN AREA AND DURING THE MONTHS IN WHICH
26 FUEL CONTAINING ALCOHOL IS REQUIRED TO BE SOLD,
27 TRANSFERRED, OR USED IN AN EFFORT TO ATTAIN AIR QUALITY
28 STANDARDS FOR CARBON MONOXIDE AS REQUIRED BY FEDERAL
29 OR STATE LAW OR REGULATION, THE TAX RATE ON MOTOR FUEL
30 THAT IS BLENDED WITH ALCOHOL IS SIX CENTS A GALLON LESS
31 THAN THE TAX ON OTHER MOTOR FUEL NOT DESCRIBED IN (A) -

(C) OF THIS PARAGRAPH].

* **Sec. 3.** AS 43.40.010(b) is amended to read:

(b) In addition to the surcharge levied under AS 43.40.005,

(1) if the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the previous calendar year is more than \$85, there is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that **the tax on**

(A) [(1) THE TAX ON] aviation gasoline consumed is four and seven-tenths cents a gallon;

(B) [(2) THE TAX ON] motor fuel used in and on watercraft of all descriptions is five cents a gallon;

(C) [(3) THE TAX ON] all aviation fuel other than gasoline is three and two-tenths cents a gallon; and

(D) [(4) THE TAX RATE ON] motor fuel that is blended with alcohol is the same tax rate a gallon as other motor fuel; however, in an area and during the months in which fuel containing alcohol is required to be sold, transferred, or used in an effort to attain air quality standards for carbon monoxide as required by federal or state law or regulation, the tax rate on motor fuel that is blended with alcohol is six cents a gallon less than the tax on other motor fuel not described in **(A) - (C) [(1) - (3)]** of this **paragraph; or**

(2) if the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the previous calendar year is less than or equal to \$85, there is levied a tax of 16 cents a gallon on all motor fuel sold or otherwise transferred within the state, except that the tax on

(A) aviation gasoline consumed is 10 cents a gallon;

(B) motor fuel used in and on watercraft of all descriptions is 10 cents a gallon;

(C) all aviation fuel other than gasoline is 10 cents a gallon;

and

(D) motor fuel that is blended with alcohol is the same tax rate a gallon as other motor fuel; however, in an area and during the

months in which fuel containing alcohol is required to be sold, transferred, or used in an effort to attain air quality standards for carbon monoxide as required by federal or state law or regulation, the tax rate on motor fuel that is blended with alcohol is six cents a gallon less than the tax on other motor fuel not described in (A) - (C) of this paragraph [SUBSECTION].

* **Sec. 4.** AS 43.40.010(b), as amended by sec. 3 of this Act, is amended to read:

(b) In addition to the surcharge levied under AS 43.40.005, [(1) IF THE AVERAGE PRICE PER BARREL FOR ALASKA NORTH SLOPE CRUDE OIL FOR SALE ON THE UNITED STATES WEST COAST DURING THE PREVIOUS CALENDAR YEAR IS MORE THAN \$85,] there is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that the tax on

(1) [(A)] aviation gasoline consumed is four and seven-tenths cents a gallon;

(2) [(B)] motor fuel used in and on watercraft of all descriptions is five cents a gallon;

(3) [(C)] all aviation fuel other than gasoline is three and two-tenths cents a gallon; and

(4) [(D)] motor fuel that is blended with alcohol is the same tax rate a gallon as other motor fuel; however, in an area and during the months in which fuel containing alcohol is required to be sold, transferred, or used in an effort to attain air quality standards for carbon monoxide as required by federal or state law or regulation, the tax rate on motor fuel that is blended with alcohol is six cents a gallon less than the tax on other motor fuel not described in (1) - (3) [(A) - (C)] of this subsection [PARAGRAPH; OR

(2) IF THE AVERAGE PRICE PER BARREL FOR ALASKA NORTH SLOPE CRUDE OIL FOR SALE ON THE UNITED STATES WEST COAST DURING THE PREVIOUS CALENDAR YEAR IS LESS THAN OR EQUAL TO \$85, THERE IS LEVIED A TAX OF 16 CENTS A GALLON ON ALL MOTOR FUEL SOLD OR OTHERWISE TRANSFERRED WITHIN THE STATE, EXCEPT THAT THE TAX ON

(A) AVIATION GASOLINE CONSUMED IS 10 CENTS A GALLON;

(B) MOTOR FUEL USED IN AND ON WATERCRAFT OF ALL DESCRIPTIONS IS 10 CENTS A GALLON;

(C) ALL AVIATION FUEL OTHER THAN GASOLINE IS 10 CENTS A GALLON; AND

(D) MOTOR FUEL THAT IS BLENDED WITH ALCOHOL IS THE SAME TAX RATE A GALLON AS OTHER MOTOR FUEL; HOWEVER, IN AN AREA AND DURING THE MONTHS IN WHICH FUEL CONTAINING ALCOHOL IS REQUIRED TO BE SOLD, TRANSFERRED, OR USED IN AN EFFORT TO ATTAIN AIR QUALITY STANDARDS FOR CARBON MONOXIDE AS REQUIRED BY FEDERAL OR STATE LAW OR REGULATION, THE TAX RATE ON MOTOR FUEL THAT IS BLENDED WITH ALCOHOL IS SIX CENTS A GALLON LESS THAN THE TAX ON OTHER MOTOR FUEL NOT DESCRIBED IN (1)(A) - (C) OF THIS SUBSECTION].

* **Sec. 5.** AS 43.40.010 is amended by adding a new subsection to read:

(m) The following motor fuel is exempt from taxation under this section:

(1) fuel consigned to foreign countries;

(2) fuel sold for use in jet propulsion aircraft operating in flights

(A) to foreign countries; or

(B) that continue from foreign countries, unless exemption of the motor fuel from taxation is disallowed because of the refiner's failure to comply with the provisions of a voluntary agreement under AS 43.40.092 in conjunction with expansion of refinery capacity;

(3) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public;

(4) fuel used by nonprofit power associations or corporations for generating electric energy for resale;

(5) fuel used by charitable institutions;

(6) fuel sold or transferred between qualified dealers;

(7) fuel sold to federal, state, and local government agencies for official use;

(8) fuel used in stationary power plants that generate electrical energy for private residential consumption;

(9) fuel used to heat private or commercial buildings or facilities;

(10) fuel used for other nontaxable purposes as prescribed by regulations adopted by the department;

(11) fuel used in stationary power plants of 100 kilowatts or less that generate electrical power for commercial enterprises not for resale;

(12) residual fuel oil used in and on watercraft if the residual fuel oil is sold or transferred in the state or consumed by a user; in this paragraph, "residual fuel oil" means the heavy refined hydrocarbon known as number 6 fuel oil that is the residue from crude oil after refined petroleum products have been extracted by the refining process and that may be consumed or used only when sufficient heat is provided to the oil to reduce its viscosity rated by kinetic unit and to give it fluid properties sufficient for pumping and combustion;

(13) fuel used in an emergency vehicle, as defined in AS 11.56.825; or

(14) fuel used for student transportation services for which a school district receives funding under AS 14.09.010.

* **Sec. 6.** AS 43.40.015(c) is amended to read:

(c) A certificate of use obtained under this section must be renewed annually for exemptions listed under **AS 43.40.010(m)** [AS 43.40.100(2)].

* **Sec. 7.** AS 43.40.015(d) is amended to read:

(d) A certificate of use is not required under this section

(1) for fuel exempted under **AS 43.40.010(m)(3) or (10)** [AS 43.40.100(2)(C) OR (J)]; and

(2) for fuel exempted under **AS 43.40.010(m)(9)** [AS 43.40.100(2)(I)] other than fuel sold or transferred under this exemption to a person who is engaged in construction or mining activity.

* **Sec. 8.** AS 43.40.030(a) is amended to read:

(a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to

operate an internal combustion engine is entitled to a motor fuel tax refund of six cents a gallon if the tax was paid under AS 43.40.010(a)(1) or (b)(1) or 12 cents a gallon if the tax was paid under AS 43.40.010(a)(2) or (b)(2), and if

(1) the tax on the motor fuel has been paid;

(2) the motor fuel is not aviation fuel, or motor fuel used in or on watercraft; and

(3) the internal combustion engine is not used in or in conjunction with a motor vehicle licensed to be operated on public ways.

* **Sec. 9.** AS 43.40.030(a), as amended by sec. 8 of this Act, is amended to read:

(a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to operate an internal combustion engine is entitled to a motor fuel tax refund of six cents a gallon [IF THE TAX WAS PAID UNDER AS 43.40.010(a)(1) OR (b)(1) OR 12 CENTS A GALLON IF THE TAX WAS PAID UNDER AS 43.40.010(a)(2) OR (b)(2), AND] if

(1) the tax on the motor fuel has been paid;

(2) the motor fuel is not aviation fuel, or motor fuel used in or on watercraft; and

(3) the internal combustion engine is not used in or in conjunction with a motor vehicle licensed to be operated on public ways.

* **Sec. 10.** AS 43.40.100(2) is amended to read:

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine, or mechanical contrivance that is run by an internal combustion motor; ["MOTOR FUEL" DOES NOT INCLUDE

(A) FUEL CONSIGNED TO FOREIGN COUNTRIES;

(B) FUEL SOLD FOR USE IN JET PROPULSION
AIRCRAFT OPERATING IN FLIGHTS

(i) TO FOREIGN COUNTRIES; OR

(ii) THAT CONTINUE FROM FOREIGN
COUNTRIES, UNLESS EXEMPTION OF THE MOTOR FUEL
FROM TAXATION IS DISALLOWED BECAUSE OF THE

REFINER'S FAILURE TO COMPLY WITH THE PROVISIONS OF
A VOLUNTARY AGREEMENT UNDER AS 43.40.092 IN
CONJUNCTION WITH EXPANSION OF REFINERY CAPACITY;

(C) FUEL USED IN STATIONARY POWER PLANTS
OPERATING AS PUBLIC UTILITY PLANTS AND GENERATING
ELECTRICAL ENERGY FOR SALE TO THE GENERAL PUBLIC;

(D) FUEL USED BY NONPROFIT POWER
ASSOCIATIONS OR CORPORATIONS FOR GENERATING ELECTRIC
ENERGY FOR RESALE;

(E) FUEL USED BY CHARITABLE INSTITUTIONS;

(F) FUEL SOLD OR TRANSFERRED BETWEEN
QUALIFIED DEALERS;

(G) FUEL SOLD TO FEDERAL, STATE, AND LOCAL
GOVERNMENT AGENCIES FOR OFFICIAL USE;

(H) FUEL USED IN STATIONARY POWER PLANTS
THAT GENERATE ELECTRICAL ENERGY FOR PRIVATE
RESIDENTIAL CONSUMPTION;

(I) FUEL USED TO HEAT PRIVATE OR COMMERCIAL
BUILDINGS OR FACILITIES;

(J) FUEL USED FOR OTHER NONTAXABLE PURPOSES
AS PRESCRIBED BY REGULATIONS ADOPTED BY THE
DEPARTMENT;

(K) FUEL USED IN STATIONARY POWER PLANTS OF
100 KILOWATTS OR LESS THAT GENERATE ELECTRICAL POWER
FOR COMMERCIAL ENTERPRISES NOT FOR RESALE; OR

(L) RESIDUAL FUEL OIL USED IN AND ON
WATERCRAFT IF THE RESIDUAL FUEL OIL IS SOLD OR
TRANSFERRED IN THE STATE OR CONSUMED BY A USER; FOR
PURPOSES OF THIS SUBPARAGRAPH, "RESIDUAL FUEL OIL"
MEANS THE HEAVY REFINED HYDROCARBON KNOWN AS
NUMBER 6 FUEL OIL THAT IS THE RESIDUE FROM CRUDE OIL

1 AFTER REFINED PETROLEUM PRODUCTS HAVE BEEN EXTRACTED
2 BY THE REFINING PROCESS AND THAT MAY BE CONSUMED OR
3 USED ONLY WHEN SUFFICIENT HEAT IS PROVIDED TO THE OIL TO
4 REDUCE ITS VISCOSITY RATED BY KINETIC UNIT AND TO GIVE IT
5 FLUID PROPERTIES SUFFICIENT FOR PUMPING AND
6 COMBUSTION;]

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

9 APPLICABILITY. AS 43.40.030(a), as amended by sec. 9 of this Act, applies to a
10 motor fuel tax refund on motor fuel used, transferred, or sold on or after the effective date of
11 sec. 9 of this Act.

12 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 TRANSITIONAL PROVISION: REGULATIONS. The Department of Revenue may
15 adopt regulations necessary to implement the changes made by this Act. The regulations take
16 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
17 law implemented by the regulation.

18 * **Sec. 13.** Section 12 of this Act takes effect immediately under AS 01.10.070(c).

19 * **Sec. 14.** Sections 2, 4, and 9 of this Act take effect July 1, 2018.

20 * **Sec. 15.** Except as provided in secs. 13 and 14 of this Act, this Act takes effect July 1,
21 2016.