

CS FOR HOUSE BILL NO. 63(2d RLS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE

Offered: 4/30/97

Referred: Rules

Sponsor(s): REPRESENTATIVES THERRIAULT, Davies, Kelly, Brice, Kubina

A BILL

FOR AN ACT ENTITLED

1 "An Act amending the definition of 'motor fuel' under the state's motor fuel
2 tax to add, as a part of the tax exemption set out in that definition, exemption
3 from the tax for fuel sold for use in jet propulsion aircraft operating in flights
4 that continue from foreign countries, subject to termination of the exemption for
5 that fuel if a refiner operating a refinery at which the fuel was produced fails
6 to comply with terms of a voluntary agreement entered into by the refiner to
7 use Alaska residents, contractors, and suppliers to provide goods and services
8 when the refinery's capacity is expanded, to add exemption from the tax for
9 certain number 6 'residual fuel oil,' also known as bunker fuel, and to delete the
10 exemption from the tax for fuel that is at least 10 percent alcohol by volume;
11 and repealing ch. 42, SLA 1994, the Act providing for the imposition of a
12 different tax levy on residual fuel oil used in and on certain watercraft until

1 **June 30, 1998; and providing for an effective date."**

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

3 * **Section 1.** AS 43.40.015(d) is amended to read:

4 (d) A certificate of use is not required

5 (1) for fuel exempted under AS 43.40.100(2)(C) [, (F),] or **(J)** [(K)];

6 and

7 (2) for fuel exempted under **AS 43.40.100(2)(I)** [AS 43.40.100(2)(J)]

8 other than fuel sold or transferred under this exemption to a person who is engaged in
9 construction or mining activity.

10 * **Sec. 2.** AS 43.40 is amended by adding a new section to read:

11 **Sec. 43.40.092. Disallowance of exemption from motor fuel tax for certain**
12 **fuel sold for use in jet propulsion aircraft operating in flights that continue from**
13 **foreign countries.** (a) The provisions of this section apply to disallow the exemption
14 for motor fuel sold for use by a dealer or used by a user in jet propulsion aircraft
15 operating in flights that continue from foreign countries if, for motor fuel produced by
16 a refiner,

17 (1) the refiner determines, on or after the effective date of this section,
18 that the refiner will expand capacity or expand the refinery to produce more residual
19 fuel oil used in watercraft;

20 (2) on or after the effective date of this section, the refiner has
21 voluntarily committed by agreement entered into with the commissioner that, if the
22 refiner expands its oil refining capacity in order to produce additional supplies of fuel
23 for use in jet propulsion aircraft that qualify for the tax exemption, when the refiner
24 expands capacity, the refiner will

25 (A) use the refiner's best efforts to advertise for, recruit, and
26 employ in the construction activities associated with expanding refinery
27 capacity resident workers who have experience in the specific fields in which
28 they are hired to work;

29 (B) contract with licensed Alaska firms to prepare materials that
30 are used in construction activities and to provide services in conjunction with

1 activities associated with expanded refinery capacity and, in contracting with
 2 those firms, to encourage the refiner's contractors to employ and, when
 3 necessary, train state residents; and

4 (C) enter into contracts with Alaska-licensed vendors,
 5 contractors, and suppliers for the provision of supplies and services used in
 6 conjunction with activities associated with expanding refinery capacity; and

7 (3) the commissioner determines that a dealer or user claiming the
 8 exemption for motor fuel acquired from a refiner who has entered into an agreement
 9 described in (2) of this subsection acquired the motor fuel for which the exemption is
 10 claimed from a refiner who has not complied with the requirements of the agreement
 11 in completing expansion of its oil refining capacity under the agreement described in
 12 (1) of this subsection.

13 (b) For purposes of this section,

14 (1) the term "resident worker" means an individual who

15 (A) is physically present in the state with the intent to remain
 16 in the state indefinitely and has a home in the state;

17 (B) demonstrates that intent by maintaining a residence in the
 18 state;

19 (C) possesses a resident fishing, trapping, or hunting license, or
 20 receives a permanent fund dividend; and

21 (D) may be required to state under oath that the individual is
 22 not claiming residency outside of the state or obtaining benefits under a claim
 23 of residency outside of the state;

24 (2) the phrases "Alaska-licensed contractors" and "Alaska firms" mean
 25 a contractor or firm that

26 (A) has held an Alaska business license for one year before
 27 performing any work in connection with the commitment described in (a) of
 28 this section;

29 (B) has maintained for one year a place of business within the
 30 state that deals in the supplies, services, or construction of the nature required
 31 for the commitment described in (a) of this section; and

- 1 (C) is
- 2 (i) a sole proprietorship and the proprietor is an Alaska
- 3 resident;
- 4 (ii) a partnership and more than 50 percent of the
- 5 partners are Alaska residents;
- 6 (iii) a corporation that has been incorporated in the state
- 7 or is authorized to do business in the state; or
- 8 (iv) a joint venture composed entirely of ventures that
- 9 qualify under this subparagraph.

10 * **Sec. 3.** AS 43.40.100(2) is amended to read:

11 (2) "motor fuel" means fuel used in an engine for the propulsion of a

12 motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a

13 stationary engine, machine, or mechanical contrivance **that** [WHICH] is run by an

14 internal combustion motor; "motor fuel" does not include

15 (A) fuel consigned to foreign countries;

16 (B) fuel sold for use in jet propulsion aircraft operating in

17 flights

18 (i) to foreign countries; or

19 (ii) that continue from foreign countries, unless

20 exemption of the motor fuel from taxation is disallowed because of

21 the refiner's failure to comply with the provisions of a voluntary

22 agreement under AS 43.40.092 in conjunction with expansion of

23 refinery capacity;

24 (C) fuel used in stationary power plants operating as public

25 utility plants and generating electrical energy for sale to the general public;

26 (D) fuel used by nonprofit power associations or corporations

27 for generating electric energy for resale;

28 (E) fuel used by charitable institutions;

29 (F) [FUEL WHICH IS AT LEAST 10 PERCENT ALCOHOL

30 BY VOLUME;

31 (G)] fuel sold or transferred between qualified dealers;

1 **(G)** [(H)] fuel sold to federal, state, and local government
2 agencies for official use;

3 **(H)** [(I)] fuel used in stationary power plants that generate
4 electrical energy for private residential consumption;

5 **(I)** [(J)] fuel used to heat private or commercial buildings or
6 facilities;

7 **(J)** [(K)] fuel used for other nontaxable purposes as prescribed
8 by regulations adopted by the department; [OR]

9 **(K)** [(L)] fuel used in stationary power plants of 100 **kilowatts**
10 [KW] or less that generate electrical power for commercial enterprises not for
11 resale; **or**

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

20 * **Sec. 4.** Chapter 42, SLA 1994, is repealed.

21 * **Sec. 5.** This Act takes effect July 1, 1997.