

**SENATE CS FOR CS FOR HOUSE BILL NO. 63(RLS)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - FIRST SESSION**

**BY THE SENATE RULES COMMITTEE**

**Offered: 5/11/97**

**Referred: Today's Calendar**

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

**A BILL**

**FOR AN ACT ENTITLED**

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

1 on residual fuel oil used in and on certain watercraft until June 30, 1998; and  
2 providing for an effective date."

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

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

5 (a) There is levied a tax of eight cents a gallon on all motor fuel sold or  
6 otherwise transferred within the state, except that

7 (1) the tax on aviation gasoline is four and seven-tenths cents a gallon;

8 (2) the tax on motor fuel used in and on watercraft of all descriptions  
9 is five cents a gallon; [AND]

10 (3) the tax on all aviation fuel other than gasoline is three and two-  
11 tenths cents a gallon; **and**

12 **(4) the tax rate on motor fuel that is blended with alcohol is the**  
13 **same tax rate a gallon as other motor fuel; however,**

14 **(A) in an area and during the months in which fuel**  
15 **containing alcohol is required to be sold, transferred, or used in an effort**  
16 **to attain air quality standards for carbon monoxide as required by federal**  
17 **or state law or regulation, the tax rate on motor fuel that is blended with**  
18 **alcohol is four cents less than the tax on other motor fuel not described in**  
19 **(1) - (3) of this subsection;**

20 **(B) notwithstanding (A) of this paragraph, through June 30,**  
21 **2004, the tax on motor fuel sold or otherwise transferred within the state**  
22 **is eight cents a gallon less than the tax on other motor fuel not described**  
23 **in (1) - (3) of this subsection if the motor fuel**

24 **(i) is at least 10 percent alcohol by volume, has been**  
25 **produced from the processing of lignocellulose derived from wood,**  
26 **and was produced in a facility that processes lignocellulose from**  
27 **wood, but this reduction in the rate of tax applies to motor fuel sold**  
28 **or transferred that contains alcohol that was produced only during**  
29 **the first five years of the facility's processing of lignocellulose from**  
30 **wood; or**

1                                    (ii) is at least 10 percent alcohol by volume, has been  
 2                                    produced from the processing of waste seafood, and was produced  
 3                                    in a facility that processes alcohol from waste seafood, but this  
 4                                    reduction in the rate of tax applies to motor fuel sold or transferred  
 5                                    that contains alcohol that was produced only during the first five  
 6                                    years of the facility's processing of alcohol from waste seafood.

7        \* **Sec. 2.** AS 43.40.010(a), as repealed and reenacted by sec. 3, ch. 127, SLA 1994, is  
 8 amended to read:

9                    (a) There is levied a tax of eight cents a gallon on all motor fuel sold or  
 10 otherwise transferred within the state, except that

11                                    (1) the tax on aviation gasoline is four cents a gallon;

12                                    (2) the tax on motor fuel used in and on watercraft of all descriptions  
 13 is five cents a gallon; [AND]

14                                    (3) the tax on all aviation fuel other than gasoline is two and one-half  
 15 cents a gallon; **and**

16                                    (4) the tax rate on motor fuel that is blended with alcohol is the  
 17 same tax rate a gallon as other motor fuel; however,

18                                    (A) in an area and during the months in which fuel  
 19 containing alcohol is required to be sold, transferred, or used in an effort  
 20 to attain air quality standards for carbon monoxide as required by federal  
 21 or state law or regulation, the tax rate on motor fuel that is blended with  
 22 alcohol is four cents less than the tax on other motor fuel not described in  
 23 (1) - (3) of this subsection;

24                                    (B) notwithstanding (A) of this paragraph, through June 30,  
 25 2004, the tax on motor fuel sold or otherwise transferred within the state  
 26 is eight cents a gallon less than the tax on other motor fuel not described  
 27 in (1) - (3) of this subsection if the motor fuel

28                                    (i) is at least 10 percent alcohol by volume, has been  
 29 produced from the processing of lignocellulose derived from wood,  
 30 and was produced in a facility that processes lignocellulose from  
 31 wood, but this reduction in the rate of tax applies to motor fuel sold

1 or transferred that contains alcohol that was produced only during  
 2 the first five years of the facility's processing of lignocellulose from  
 3 wood; or

4 (ii) is at least 10 percent alcohol by volume, has been  
 5 produced from the processing of waste seafood, and was produced  
 6 in a facility that processes alcohol from waste seafood, but this  
 7 reduction in the rate of tax applies to motor fuel sold or transferred  
 8 that contains alcohol that was produced only during the first five  
 9 years of the facility's processing of alcohol from waste seafood.

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

11 (b) There is levied a tax of eight cents a gallon on all motor fuel consumed  
 12 by a user, except that

13 (1) the tax on aviation gasoline consumed is four and seven-tenths cents  
 14 a gallon;

15 (2) the tax on motor fuel used in and on watercraft of all descriptions  
 16 is five cents a gallon; [AND]

17 (3) the tax on all aviation fuel other than gasoline is three and two-  
 18 tenths cents a gallon; **and**

19 (4) the tax rate on motor fuel that is blended with alcohol is the  
 20 same tax rate a gallon as other motor fuel; however,

21 (A) in an area and during the months in which fuel  
 22 containing alcohol is required to be sold, transferred, or used in an effort  
 23 to attain air quality standards for carbon monoxide as required by federal  
 24 or state law or regulation, the tax rate on motor fuel that is blended with  
 25 alcohol is four cents less than the tax on other motor fuel not described in  
 26 (1) - (3) of this subsection;

27 (B) notwithstanding (A) of this paragraph, through June 30,  
 28 2004, the tax on motor fuel consumed by a user within the state is eight  
 29 cents a gallon less than the tax on other motor fuel not described in (1) -  
 30 (3) of this subsection if the motor fuel

31 (i) is at least 10 percent alcohol by volume, has been

1 produced from the processing of lignocellulose derived from wood,  
 2 and was produced in a facility that processes lignocellulose from  
 3 wood, but this reduction in the rate of tax applies to motor fuel  
 4 consumed by a user that contains alcohol that was produced only  
 5 during the first five years of the facility's processing of  
 6 lignocellulose from wood; or

7 (ii) is at least 10 percent alcohol by volume, has been  
 8 produced from the processing of waste seafood, and was produced  
 9 in a facility that processes alcohol from waste seafood, but this  
 10 reduction in the rate of tax applies to motor fuel consumed by a  
 11 user that contains alcohol that was produced only during the first  
 12 five years of the facility's processing of alcohol from waste seafood.

13 \* **Sec. 4.** AS 43.40.010(b), as repealed and reenacted by sec. 5, ch. 127, SLA 1994, is  
 14 amended to read:

15 (b) There is levied a tax of eight cents a gallon on all motor fuel consumed  
 16 by a user, except that

17 (1) the tax on aviation gasoline consumed is four cents a gallon;

18 (2) the tax on motor fuel used in and on watercraft of all descriptions  
 19 is five cents a gallon; [AND]

20 (3) the tax on all aviation fuel other than gasoline is two and one-half  
 21 cents a gallon; **and**

22 (4) the tax rate on motor fuel that is blended with alcohol is the  
 23 same tax rate a gallon as other motor fuel; however,

24 (A) in an area and during the months in which fuel  
 25 containing alcohol is required to be sold, transferred, or used in an effort  
 26 to attain air quality standards for carbon monoxide as required by federal  
 27 or state law or regulation, the tax rate on motor fuel that is blended with  
 28 alcohol is four cents less than the tax on other motor fuel not described in  
 29 (1) - (3) of this subsection;

30 (B) notwithstanding (A) of this paragraph, through June 30,  
 31 2004, the tax on motor fuel consumed by a user within the state is eight

1           cents a gallon less than the tax on other motor fuel not described in (1) -  
 2           (3) of this subsection if the motor fuel

3                           (i) is at least 10 percent alcohol by volume, has been  
 4                           produced from the processing of lignocellulose derived from wood,  
 5                           and was produced in a facility that processes lignocellulose from  
 6                           wood, but this reduction in the rate of tax applies to motor fuel  
 7                           consumed by a user that contains alcohol that was produced only  
 8                           during the first five years of the facility's processing of  
 9                           lignocellulose from wood; or

10                           (ii) is at least 10 percent alcohol by volume, has been  
 11                           produced from the processing of waste seafood, and was produced  
 12                           in a facility that processes alcohol from waste seafood, but this  
 13                           reduction in the rate of tax applies to motor fuel consumed by a  
 14                           user that contains alcohol that was produced only during the first  
 15                           five years of the facility's processing of alcohol from waste seafood.

16 \* **Sec. 5.** AS 43.40.015(d) is amended to read:

17           (d) A certificate of use is not required

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

19           and

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

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

23 \* **Sec. 6.** AS 43.40 is amended by adding a new section to read:

24           **Sec. 43.40.092. Disallowance of exemption from motor fuel tax for certain**  
 25           **fuel sold for use in jet propulsion aircraft operating in flights that continue from**  
 26           **foreign countries.** (a) The provisions of this section apply to disallow the exemption  
 27           for motor fuel sold for use by a dealer or used by a user in jet propulsion aircraft  
 28           operating in flights that continue from foreign countries if, for motor fuel produced by  
 29           a refiner,

30                           (1) the refiner determines, on or after the effective date of this section,  
 31           that the refiner will expand capacity or expand the refinery to produce more residual

1 fuel oil used in watercraft;

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

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

11 (B) contract with licensed Alaska firms to prepare materials that  
12 are used in construction activities and to provide services in conjunction with  
13 activities associated with expanded refinery capacity and, in contracting with  
14 those firms, to encourage the refiner's contractors to employ and, when  
15 necessary, train state residents; and

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

19 (3) the commissioner determines that a dealer or user claiming the  
20 exemption for motor fuel acquired from a refiner who has entered into an agreement  
21 described in (2) of this subsection acquired the motor fuel for which the exemption is  
22 claimed from a refiner who has not complied with the requirements of the agreement  
23 in completing expansion of its oil refining capacity under the agreement described in  
24 (1) of this subsection.

25 (b) For purposes of this section,

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

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

29 (B) demonstrates that intent by maintaining a residence in the  
30 state;

31 (C) possesses a resident fishing, trapping, or hunting license, or

1 receives a permanent fund dividend; and

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

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

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

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

13 (C) is

14 (i) a sole proprietorship and the proprietor is an Alaska  
15 resident;

16 (ii) a partnership and more than 50 percent of the  
17 partners are Alaska residents;

18 (iii) a corporation that has been incorporated in the state  
19 or is authorized to do business in the state; or

20 (iv) a joint venture composed entirely of ventures that  
21 qualify under this subparagraph.

22 \* **Sec. 7.** AS 43.40.100(2) is amended to read:

23 (2) "motor fuel" means fuel used in an engine for the propulsion of a  
24 motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a  
25 stationary engine, machine, or mechanical contrivance **that** [WHICH] is run by an  
26 internal combustion motor; "motor fuel" does not include

27 (A) fuel consigned to foreign countries;

28 (B) fuel sold for use in jet propulsion aircraft operating in  
29 flights

30 (i) to foreign countries; or

31 (ii) that continue from foreign countries, unless

1                    **exemption of the motor fuel from taxation is disallowed because of**  
 2                    **the refiner's failure to comply with the provisions of a voluntary**  
 3                    **agreement under AS 43.40.092 in conjunction with expansion of**  
 4                    **refinery capacity;**

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

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

9                    (E) fuel used by charitable institutions;

10                  (F) [FUEL WHICH IS AT LEAST 10 PERCENT ALCOHOL  
 11                  BY VOLUME;

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

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

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

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

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

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

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

1     \* **Sec. 8.** Chapter 42, SLA 1994, is repealed.

2     \* **Sec. 9.** CONDITIONAL EFFECT OF SECTIONS 2 AND 4. Sections 2 and 4 of this  
3 Act take effect only if, under sec. 6, ch. 127, SLA 1994, secs. 3 and 5, ch. 127, SLA 1994,  
4 take effect because the Department of Transportation and Public Facilities, before January 1,  
5 2000, increases the fee it charges under AS 02.15.090(a) for the privilege of landing aircraft  
6 at rural airports, as that term is defined in 17 AAC 40.795(2), above the amount of the fee in  
7 effect on January 1, 1994.

8     \* **Sec. 10.** Sections 1, 3, and 5 - 9 of this Act take effect July 1, 1997.

9     \* **Sec. 11.** (a) If secs. 2 and 4 of this Act take effect under sec. 9 of this Act and sec. 6,  
10 ch. 127, SLA 1994, they take effect on the later of

11                   (1) the 30th day after the effective date of the landing fee increase described  
12 in sec. 9 of this Act; or

13                   (2) the day after the day that sec. 9 of this Act becomes law.

14           (b) The commissioner of transportation and public facilities shall promptly notify the  
15 commissioner of revenue, the lieutenant governor, and the revisor of statutes of a landing fee  
16 increase described in sec. 9 of this Act.