

**SENATE BILL NO. 39**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/21/99

Referred: Transportation, Finance

**A BILL**

**FOR AN ACT ENTITLED**

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

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

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

4 (a) There is levied a tax of 17 [EIGHT] cents a gallon on all motor fuel sold  
5 or otherwise transferred within the state, except that

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

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

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

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

13 (A) in an area and during the months in which fuel containing  
14 alcohol is required to be sold, transferred, or used in an effort to attain air  
15 quality standards for carbon monoxide as required by federal or state law or

1 regulation, the tax rate on motor fuel that is blended with alcohol is six cents  
 2 a gallon less than the tax on other motor fuel not described in (1) - (3) of this  
 3 subsection;

4 (B) notwithstanding (A) of this paragraph, through June 30,  
 5 2004, the tax on motor fuel sold or otherwise transferred within the state is  
 6 eight cents a gallon less than the tax on other motor fuel not described in (1)  
 7 - (3) of this subsection if the motor fuel

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

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

20 \* **Sec. 2.** AS 43.40.010(b) is amended to read:

21 (b) There is levied a tax of 17 [EIGHT] cents a gallon on all motor fuel  
 22 consumed by a user, except that

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

25 (2) the tax on motor fuel used in and on watercraft of all descriptions  
 26 is five cents a gallon;

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

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

31 (A) in an area and during the months in which fuel containing

1 alcohol is required to be sold, transferred, or used in an effort to attain air  
 2 quality standards for carbon monoxide as required by federal or state law or  
 3 regulation, the tax rate on motor fuel that is blended with alcohol is six cents  
 4 a gallon less than the tax on other motor fuel not described in (1) - (3) of this  
 5 subsection;

6 (B) notwithstanding (A) of this paragraph, through June 30,  
 7 2004, the tax on motor fuel consumed by a user within the state is eight cents  
 8 a gallon less than the tax on other motor fuel not described in (1) - (3) of this  
 9 subsection if the motor fuel

10 (i) is at least 10 percent alcohol by volume, has been  
 11 produced from the processing of lignocellulose derived from wood, and  
 12 was produced in a facility that processes lignocellulose from wood, but  
 13 this 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 five  
 15 years of the facility's processing of lignocellulose from wood; or

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

22 \* **Sec. 3.** AS 43.40.010(g) is amended to read:

23 (g) The proceeds of the revenue from the tax on all motor fuels, except as  
 24 provided in (e), (f), and (j) of this section, shall be deposited in a special **highway**  
 25 **construction and maintenance** [HIGHWAY FUEL TAX] account in the state general  
 26 fund. The legislature may appropriate **money** [FUNDS] from **the account** [IT] for  
 27 expenditure by the Department of Transportation and Public Facilities **first** directly or  
 28 as matched with available federal-aid highway money for **planning, design, and**  
 29 [MAINTENANCE OF HIGHWAYS,] construction of highway projects, [AND] ferries,  
 30 **and ferry terminals** included in the program provided for in AS 19.10.150, **and**  
 31 **second for secondary road paving and deferred maintenance projects included in**

1 **the program provided for in AS 19.10.150. Eligible construction projects include**  
 2 [INCLUDING] approaches, appurtenances and related facilities and acquisition of  
 3 rights-of-way or easements, and other highway costs including surveys, administration,  
 4 and related matters. All departments of the state government authorized to spend  
 5 **money** [FUNDS] collected from taxes imposed by this chapter shall perform, **if**  
 6 [WHEN] feasible, all construction or reconstruction projects by contract after the  
 7 projects have been advertised for competitive bids, except that, when feasible,  
 8 arrangements shall be made with political subdivisions to carry out the construction  
 9 or reconstruction projects. If it is not feasible for the work to be performed by state  
 10 engineering forces, the commissioner of transportation and public facilities may **issue**  
 11 **a best interest determination and** contract on a professional basis with private  
 12 engineering firms for road design, bridge design, and services in connection with  
 13 surveys. If more than one private engineering firm is available for the work, the  
 14 contracts shall be entered into on a negotiated basis.

15 \* **Sec. 4.** AS 43.40.010(h) is amended to read:

16 (h) All motor fuel tax receipts shall be paid into the general fund and  
 17 distributed to the proper accounts in the general fund. Valid motor fuel tax refund  
 18 claims shall be paid from the **highway construction and maintenance** [HIGHWAY  
 19 FUEL TAX] account in the general fund.

20 \* **Sec. 5.** AS 43.40.030(a) is amended to read:

21 (a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to  
 22 operate an internal combustion engine is entitled to a refund of **13** [SIX] cents a gallon  
 23 if

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

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

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

29 \* **Sec. 6.** AS 43.40.070 is amended to read:

30 **Sec. 43.40.070. Refund warrants.** Upon approval of a refund claim by the  
 31 department, a warrant shall be drawn on the **highway construction and maintenance**

1 [HIGHWAY FUEL TAX] account in the general fund in favor of the applicant in the  
2 amount of the claim.

3 \* **Sec. 7.** AS 43.40 is amended by adding a new section to read:

4 **Sec. 43.40.087. Civil penalties and enforcement.** (a) Notwithstanding the  
5 provisions of AS 43.05.130 or 43.05.220, the department shall assess a civil penalty  
6 in accordance with this section for a violation of this chapter or a regulation adopted  
7 under this chapter. The department shall establish the amount and other standards for  
8 the assessment by regulations adopted under AS 43.05.080, but the maximum penalty  
9 assessed under this section may not exceed

10 (1) \$10,000 for the first violation;

11 (2) \$50,000 for each subsequent violation.

12 (b) A civil penalty assessed under (a) of this section is in addition to any  
13 criminal penalty imposed under AS 43.05.290.

14 (c) In addition to a civil penalty assessed under (a) of this section, any  
15 criminal penalties imposed under AS 43.05.290, interest imposed under this title, and  
16 any other remedy or other means of enforcement available under this title, for a  
17 violation of this chapter or a regulation under this chapter the department may, in  
18 accordance with regulations adopted under AS 43.05.080,

19 (1) revoke a license issued under this chapter; and

20 (2) assess restitution in an amount of up to twice the amount of unpaid  
21 tax or unwarranted refund received.

22 \* **Sec. 8.** 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 is run by an internal  
26 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 the  
2 refiner's failure to comply with the provisions of a voluntary agreement  
3 under AS 43.40.092 in conjunction with expansion of refinery capacity;

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

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

8 (E) fuel used by charitable institutions approved under  
9 26 U.S.C. 501(c)(3);

10 (F) fuel sold or transferred between qualified dealers;

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

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

15 (I) fuel used to heat private or commercial buildings or  
16 facilities;

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

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

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

29 \* **Sec. 9.** This Act takes effect July 1, 1999.