

CS FOR HOUSE BILL NO. 303(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/26/02

Referred: Rules

Sponsor(s): REPRESENTATIVES WHITAKER, Fate, Lancaster

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the levy and collection of a sales tax and a use tax and to levy and**
2 **collection of municipal sales and use taxes; and providing for an effective date."**

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

4 *** Section 1.** AS 29.05.210(b) is amended to read:

5 (b) The department shall provide assistance to each borough and unified
6 municipality incorporated after December 31, 1985, in

7 (1) establishing the initial sales and use tax assessment [AND
8 COLLECTION DEPARTMENT] if the borough or unified municipality has adopted a
9 sales or use tax;

10 (2) determining the initial property tax assessment roll if the borough
11 or unified municipality has adopted a property tax, including contracting for appraisals
12 of property needed to complete the initial assessment.

13 *** Sec. 2.** AS 29.10.200(50) is amended to read:

14 (50) **AS 29.45.650** [AS 29.45.650(c), (d), (e), AND (f)] (**borough**

1 **general** sales and use **taxes** [TAX];

2 * **Sec. 3.** AS 29.10.200(51) is amended to read:

3 (51) **AS 29.45.700** [AS 29.45.700(d)] (**city** sales and use **taxes**
4 [TAX]);

5 * **Sec. 4.** AS 29.10.200 is amended by adding a new paragraph to read:

6 (62) AS 29.45.655 (borough specific sales and use taxes).

7 * **Sec. 5.** AS 29.35.170 is amended to read:

8 **Sec. 29.35.170. Assessment and collection of taxes.** (a) A borough shall
9 assess [AND COLLECT] property, sales, and use taxes **and collect taxes, other than**
10 **general sales and use taxes,** that are levied in its boundaries, subject to AS 29.45.

11 (b) Taxes, **other than general sales and use taxes,** levied by a city shall be
12 collected by a borough and returned in full to the levying city. This subsection applies
13 to home rule and general law municipalities.

14 * **Sec. 6.** AS 29.45.650 is repealed and reenacted to read:

15 **Sec. 29.45.650. General sales and use taxes.** (a) A borough may levy
16 general sales and use taxes.

17 (b) The Department of Revenue shall collect general sales and use taxes levied
18 by a municipality under this subsection and remit the proceeds to the municipality.
19 The Department of Revenue may use its administrative authority under AS 43.05 and
20 its enforcement and collection authority under AS 43.10 to collect general sales and
21 use taxes levied by a municipality under this subsection.

22 (c) For purposes of this section, "general sales and use taxes" means a sales
23 tax and a use tax that conform in all particulars to the taxes levied and collected under
24 AS 43.44, except that the taxes may be at any rate.

25 * **Sec. 7.** AS 29.45 is amended by adding a new section to read:

26 **Sec. 29.45.655. Specific sales and use taxes.** (a) A borough may levy and
27 collect specific sales and use taxes as provided in AS 04.21.010(c) and in this section.
28 The specific use tax rate must equal the specific sales tax rate, and the use tax shall be
29 levied only on buyers. A borough may levy and collect taxes under this section
30 instead of or in addition to levying general sales and use taxes under AS 29.45.650.

31 (b) A person who furnishes proof, in the form required by the borough tax

1 collector, that the person has paid a sales tax on the source on which a specific use tax
 2 is levied by the borough is required to pay the specific use tax only to the extent of the
 3 difference between the amount of the sales tax paid and the amount of the use tax
 4 levied by the borough. This subsection applies to a sales tax levied in any taxing
 5 jurisdiction whether inside or outside the state.

6 (c) If the assembly charges interest on specific sales taxes not paid when due,
 7 the rate of interest may not exceed 15 percent a year on the delinquent taxes and shall
 8 be charged from the due date until paid in full.

9 (d) A borough may provide for the creation, recording, and notice of a lien on
 10 real or personal property to secure the payment of a specific sales and use tax, and the
 11 interest, penalties, and administration costs in the event of delinquency. When
 12 recorded, the sales tax lien has priority over all other liens except (1) liens for property
 13 taxes and special assessments; (2) liens that were perfected before the recording of the
 14 sales tax lien for amounts actually advanced before the recording of the sales tax lien;
 15 and (3) mechanics' and materialmen's liens for which claims of lien under
 16 AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded
 17 before the recording of the sales tax lien.

18 (e) A borough may not levy and collect a specific sales tax on a purchase
 19 made with

20 (1) food coupons, food stamps, or other type of certificate issued under
 21 7 U.S.C. 2011 - 2025 (Food Stamp Act); or

22 (2) food instruments, food vouchers, or other type of certificate issued
 23 under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants, and
 24 Children).

25 (f) A borough may not levy or collect a specific sales tax on sales, rents, and
 26 services, or a use tax on the storage, use, or consumption of personal property on the
 27 following activities:

28 (1) the sale, lease, rental, storage, consumption, or distribution in the
 29 state of or the provision of services relating to an orbital space facility, space
 30 propulsion system, or space vehicle, satellite, or station of any kind possessing space
 31 flight capacity, including the components of them;

1 (2) the sale, lease, rental, storage, consumption, or use of tangible
 2 personal property placed on or used aboard an orbital space facility, space propulsion
 3 system, or space vehicle, satellite, or station of any kind, regardless of whether the
 4 tangible personal property is returned to the state for subsequent use, storage, or
 5 consumption; an exemption under this paragraph is not affected by the failure of a
 6 launch to occur or the destruction of a launch vehicle or a component of a launch
 7 vehicle.

8 (g) For purposes of this section, "specific sales and use taxes" means a sales
 9 tax on the sale of a specific category of goods, on the sale of real property, on a
 10 specific category of rents, or on a specific category of services performed for
 11 consideration in the borough, along with a corresponding use tax. Specific sales and
 12 use taxes that may be levied and collected under this section include, by way of
 13 example and not limitation, an alcohol tax, a fuel tax, and a hotel bed tax.

14 * **Sec. 8.** AS 29.45.700 is repealed and reenacted to read:

15 **Sec. 29.45.700. Power of levy.** A city may

16 (1) levy general sales and use taxes in the manner provided for
 17 boroughs under AS 29.45.650; and

18 (2) levy and collect specific sales and use taxes in the manner provided
 19 for boroughs under AS 29.45.655.

20 * **Sec. 9.** AS 43 is amended by adding a new chapter to read:

21 **Chapter 44. Sales and Use Taxes.**

22 **Sec. 43.44.010. Levy of sales and use taxes; tax rate.** (a) A sales tax is
 23 levied on the sale of goods, on the sale of real property, on rents, and on services
 24 performed for consideration.

25 (b) A use tax is levied on the storage, use, or consumption of goods acquired
 26 on or after January 1, 2003, on the storage, use, or consumption in the state of goods
 27 or a service stored, used, or consumed after January 1, 2003, and the use of real
 28 property acquired on or after January 1, 2003, the sale of which, if it had occurred in
 29 this state, would be subject to tax under (a) of this section. The use tax is not levied if
 30 the tax under (a) of this section has been paid on the property.

31 (c) The rate of the sales tax shall be applied to the price of goods sold, the

1 price of real property sold, rents, and the value of services performed. The rate of the
 2 use tax shall be applied to the value of the goods or services stored, used, or
 3 consumed. The applicable tax rate for a calendar year is:

4 (1) three percent if, on September 30 of the previous year, the
 5 unaudited balance in the budget reserve fund created by art. IX, sec. 17, Constitution
 6 of the State of Alaska, was equal to or less than \$2,000,000,000;

7 (2) two percent if, on September 30 of the previous year, the unaudited
 8 balance in the budget reserve fund created by art. IX, sec. 17, Constitution of the State
 9 of Alaska, was more than \$2,000,000,000 but not more than \$2,500,000,000;

10 (3) one percent if, on September 30 of the previous year, the unaudited
 11 balance in the budget reserve fund created by art. IX, sec. 17, Constitution of the State
 12 of Alaska, was more than \$2,500,000,000.

13 (d) As soon as practicable after September 30 of each year, the department
 14 shall publish the applicable tax rate under this section for the following calendar year.

15 **Sec. 43.44.020. Exemptions.** The tax levied under AS 43.44.010 does not
 16 apply to

17 (1) goods sold, real property sold, rents, or services performed that are

18 (A) explicitly exempted from taxation under another provision
 19 of state law; or

20 (B) exempt from taxation under federal law, including sales to
 21 the federal government, and purchases made with

22 (i) food coupons, food stamps, or other types of
 23 certificates issued under 7 U.S.C. 2011 - 2036 (Food Stamp Act); and

24 (ii) food instruments, food vouchers, or other types of
 25 certificates issued under 42 U.S.C. 1786 (special supplemental nutrition
 26 program for women, infants, and children);

27 (2) sales of goods or services for resale, including the sale and
 28 transportation of goods that are used in connection with or will become an ingredient
 29 or component part of goods manufactured, processed, or fabricated for resale;

30 (3) electricity, natural gas, water and sewer utility services, and fuel for
 31 heating or electrical generation;

- 1 (4) funeral, cemetery, and crematory goods and services;
- 2 (5) health care services provided by a person licensed or certified to
3 provide those services under AS 08, by a public home care provider as that term is
4 defined in AS 47.05.017(c), by a health care facility operating under a certificate of
5 need issued under AS 18.07, by a hospital licensed under AS 18.20, or by an assisted
6 living home licensed under AS 47.33;
- 7 (6) prescription drugs, devices, and supplies prescribed by a person
8 licensed to prescribe those goods under AS 08;
- 9 (7) interest earned or paid by banks, brokerage firms, savings and loan
10 associations, credit unions, and investment banks, and the following sales and services
11 provided by banks, brokerage firms, savings and loan associations, credit unions, and
12 investment banks:
- 13 (A) services associated with any deposit accounts, including
14 service fees, insufficient funds fees, and attachment fees;
- 15 (B) fees for the purchase of bank checks, money orders,
16 traveler's checks, and similar products for payment;
- 17 (C) loan fees and points associated with loan transactions;
- 18 (D) pass-through charges on loan transactions that include sales
19 tax;
- 20 (E) services associated with the sale, exchange, or transfer of
21 currency, stocks, bonds, and other securities;
- 22 (8) sales and purchases by federal, state, or local government entities;
- 23 (9) wages, salaries, commissions, and any other form of remuneration
24 paid to employees for personal services;
- 25 (10) educational services provided by a non-exempt or exempt
26 religious or other private school reporting to the commissioner of education and early
27 development under AS 14.45.030 or 14.45.110(b) or by a postsecondary educational
28 institution authorized to operate under AS 14.48;
- 29 (11) refined petroleum products taxed under AS 43.40;
- 30 (12) real estate rentals of 30 consecutive days or more;
- 31 (13) construction services;

- 1 (14) admission to museums and historic sites;
- 2 (15) sales made to an entity described in 26 U.S.C. 501(c)(3) (Internal
3 Revenue Code) and exempt from federal income tax under 26 U.S.C. 501(a);
- 4 (16) sales made by an entity described in 26 U.S.C. 501(c)(3) (Internal
5 Revenue Code) and exempt from federal income tax under 26 U.S.C. 501(a) if the
6 income from the sale is exempt from federal income taxation;
- 7 (17) casual and isolated sales or rentals by a seller who does not
8 regularly engage in the business of selling goods or services, or making rentals, but
9 only if
- 10 (A) the total sales do not exceed \$1,000 a year and the sales of
11 goods do not occur for more than 14 days in a calendar year; or
- 12 (B) the sales of goods are made by a licensed business to sell
13 business equipment used in the business and not held as inventory;
- 14 (18) sales of insurance and bonds of guaranty and fidelity, and
15 commissions on those sales.

16 **Sec. 43.44.030. Maximum value or amount of transaction subject to tax.**

- 17 (a) The sales and use taxes levied under AS 43.44.010 shall be applied only to the first
18 \$2,000 of each separate sale, rent, or service transaction, except as otherwise provided
19 in this section.
- 20 (b) Except as provided in (f) of this section for long-term personal property
21 leases, the payment of rent, whether for real or personal property, in excess of \$2,000
22 and for more than one month, shall be treated as several separate transactions covering
23 the rental or lease for one month each.
- 24 (c) A transaction involving payment for services to be rendered or delivered
25 over a period of more than one month for a consideration in excess of \$2,000 shall be
26 treated as several separate transactions occurring once each month over the period of
27 time that the service is rendered or delivered.
- 28 (d) Services provided on account and billed to the purchaser on a monthly
29 basis are subject to application of the tax on a maximum of \$2,000 of each monthly
30 billing, for each account.
- 31 (e) Each night's rental of overnight accommodations for fewer than 30

1 consecutive days total shall be considered a separate transaction and the maximum tax
2 computation shall be calculated on a per room per night basis.

3 (f) Long-term personal property leases shall be treated as one transaction for
4 each year and for each fractional year, or for the lease term, whichever is longer. The
5 tax paid for a fraction of a year shall equal the tax paid for a whole year. The sales tax
6 for the entire long-term personal property lease shall be due and collected at the time
7 of the first payment. The taxes may not be refunded if the lease terminates earlier than
8 on its terms. An extension of the initial lease term shall be treated as a new long-term
9 personal property lease. For purposes of this subsection, a long-term personal
10 property lease is a lease that grants use of the property for a period of more than one
11 month; a long-term personal property lease does not include month-to-month rental
12 agreements.

13 **Sec. 43.44.040. Collection of sales tax.** (a) A seller shall add the amount of
14 the tax levied by this chapter to the total price of goods, rentals, or services subject to
15 the tax, and the tax shall be stated separately on any sales receipt, invoice, or other
16 record of the sale or rental, except as provided in (d) of this section.

17 (b) A seller shall collect the tax from the purchaser and remit the tax collected
18 to the department not later than 30 days following the last day of the month in which
19 the tax was collected. However, a seller that collects less than \$1,000 in tax in a
20 calendar quarter may remit the tax within 30 days following the last day of the
21 calendar quarter in which the tax was collected.

22 (c) A seller remitting the tax collected under this chapter to the department as
23 required under (b) of this section and filing a complete and timely return on a form
24 prescribed by the department may retain one percent of the amount collected to cover
25 expenses associated with collecting and remitting the tax.

26 (d) A person may not include the tax in the sales price except for sales by
27 coin-operated devices, sales of food and beverages at concession stands, bars, and
28 movable vendor carts, metered sales where the sales price is computed by the metering
29 device, general admission tickets and cover charges to places of amusement, parks,
30 movies, plays, concerts, bars, and other events, taxicab fares, and as otherwise
31 determined or allowed by the department.

1 **Sec. 43.44.050. Payment of use tax.** A buyer subject to the use tax shall
2 remit the tax to the department not later than 30 days following the last day of the
3 month in which the taxable storage, use, or consumption occurs.

4 **Sec. 43.44.060. Accounting.** The department shall deposit the proceeds of the
5 sales and use tax levied under this chapter in the general fund of the state.

6 **Sec. 43.44.070. Exemption certificate.** The department shall provide
7 exemption certificates for buyers and sellers exempt from payment of the tax under
8 AS 43.44.020(2), (15), and (16).

9 **Sec. 43.44.080. Nexus.** (a) A business that has nexus with Alaska for sales or
10 use tax purposes but is not required to hold a business license under AS 43.70 must
11 register with the department for the collection and remittance of the sales and use tax
12 under this chapter.

13 (b) To the fullest extent permitted by the Constitution of the United States, a
14 person that possesses a legally sufficient minimum contact with the state shall collect
15 the sales and use taxes imposed by this chapter and remit the taxes to the department
16 as required by this chapter.

17 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 TRANSITION: REGULATIONS. The Department of Revenue may proceed to adopt
20 regulations necessary to implement the provisions of this Act. The regulations take effect
21 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
22 provision being implemented. In adopting regulations, the department shall strive for
23 consistency with the Streamlined Sales Tax Project.

24 * **Sec. 11.** Section 10 of this Act takes effect immediately under AS 01.10.070(c).

25 * **Sec. 12.** Except as provided in sec. 11 of this Act, this Act takes effect January 1, 2003.