

HOUSE BILL NO. 412

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/13/02

Referred: Transportation, State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to taxes regarding certain commercial passenger vessels operating in**
2 **the state; relating to apportionment of business income; and providing for an effective**
3 **date."**

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

5 * **Section 1.** AS 43 is amended by adding a new chapter to read:

6 **Chapter 52. Excise Tax on Passengers Traveling Aboard**

7 **a Commercial Passenger Vessel.**

8 **Sec. 43.52.010. Levy of excise tax on passengers traveling aboard a**
9 **commercial passenger vessel.** There is imposed an excise tax on passengers
10 traveling in the marine waters of the state aboard a commercial passenger vessel that
11 provides overnight accommodations.

12 **Sec. 43.52.020. Rate of tax.** The tax imposed by this chapter is levied at a
13 rate of \$30 a passenger per voyage.

14 **Sec. 43.52.030. Liability for payment of tax.** (a) A passenger traveling in

1 the marine waters of the state aboard a commercial passenger vessel that provides
2 overnight accommodations is liable for the tax imposed by this chapter. The tax

3 (1) shall be collected by the person who provides the travel to the
4 passenger; and

5 (2) is due and payable to the department

6 (A) by the person who provides the travel to the passenger,
7 regardless of whether the person actually collects the tax from the passenger;
8 and

9 (B) in the manner and at the times required by the department
10 by regulation.

11 (b) A passenger is not liable for the tax under this chapter if that passenger
12 was liable for the tax within the preceding 30 days.

13 (c) A person who provides travel for a passenger who, under (b) of this
14 section, would not be liable for the tax under this chapter is not required to collect and
15 pay the tax to the department if the person reasonably believes that the passenger is
16 not liable for the tax under (b) of this section.

17 **Sec. 43.52.040. Disposition of proceeds.** The proceeds from the tax imposed
18 by this chapter shall be deposited in the general fund.

19 **Sec. 43.52.050. Administration.** (a) The department shall

20 (1) administer this chapter; and

21 (2) collect, and supervise and enforce the collection of, taxes due under
22 this chapter and penalties as provided in AS 43.05.

23 (b) The department may adopt regulations to carry out the purposes of this
24 chapter.

25 **Sec. 43.52.900. Definitions.** In this chapter, unless the context otherwise
26 requires,

27 (1) "commercial passenger vessel" means a vessel that is used in the
28 common carriage of passengers in commerce; "commercial passenger vessel" does not
29 include a

30 (A) vessel with an overnight accommodation capacity for fewer
31 than 12 passengers;

1 (B) noncommercial vessel or a vessel operated by the state, the
2 United States, or a foreign government; or

3 (C) vessel licensed under AS 16.05.490 and used in charter
4 service for the recreational taking of fish and shellfish;

5 (2) "marine waters of the state" means the marine bays, sounds, rivers,
6 inlets, straits, passages, canals, Pacific Ocean, Gulf of Alaska, Bering Sea, and Arctic
7 Ocean within the territorial limits of the state, and all other bodies of marine water that
8 are wholly or partially within the state or are under the jurisdiction of the state;

9 (3) "passenger" means a person with whom a common carrier has
10 contracted for carriage from one place to another.

11 * **Sec. 2.** AS 43.20.021(a) is amended to read:

12 (a) Sections 26 U.S.C. 1 - 1399 and 6001 - 7872 (Internal Revenue Code), as
13 amended, are adopted by reference as a part of this chapter. These portions of the
14 Internal Revenue Code have full force and effect under this chapter unless excepted to
15 or modified by other provisions of this chapter. However, nothing in this chapter or in
16 AS 43.19 (Multistate Tax Compact) may be construed as an exception to or
17 modification of 26 U.S.C. 883, **except that 26 U.S.C. 883(a)(1) does not apply to**
18 **gross income derived by a corporation organized in a foreign country from the**
19 **international operation of a commercial passenger vessel. In this subsection,**
20 **"commercial passenger vessel" means a vessel that is used in the common**
21 **carriage of passengers in commerce; "commercial passenger vessel" does not**
22 **include a**

23 **(1) vessel with an overnight accommodation capacity for fewer**
24 **than 12 passengers;**

25 **(2) noncommercial vessel or a vessel operated by the state, the**
26 **United States, or a foreign government; or**

27 **(3) vessel licensed under AS 16.05.490 and used in charter service**
28 **for the recreational taking of fish and shellfish.**

29 * **Sec. 3.** AS 43.20.073(f) is amended to read:

30 (f) This section does not apply to taxpayers

31 **(1)** subject to AS 43.20.072 engaged in

1 **(A)** [(1)] the production of oil or gas from a lease or property
2 in the state; or

3 **(B)** [(2)] the transportation of oil or gas by regulated pipeline
4 in the state; **or**

5 **(2) that operate a commercial passenger vessel; in this paragraph,**
6 **"commercial passenger vessel" means a vessel that is used in the common**
7 **carriage of passengers in commerce, but does not include a**

8 **(A) vessel with an overnight accommodation capacity for**
9 **fewer than 12 passengers;**

10 **(B) noncommercial vessel or a vessel operated by the state,**
11 **the United States, or a foreign government; or**

12 **(C) vessel licensed under AS 16.05.490 and used in charter**
13 **service for the recreational taking of fish and shellfish.**

14 * **Sec. 4.** AS 43.52.010, 43.52.020, 43.52.030, 43.52.040, 43.52.050, and 43.52.900 are
15 repealed.

16 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 APPLICABILITY. Sections 2 and 3 of this Act apply to tax years beginning on or
19 after the effective date of secs. 2 and 3 of this Act.

20 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 TRANSITION: REGULATIONS. Notwithstanding sec. 9 of this Act, the
23 Department of Revenue may proceed to adopt regulations to implement sec. 1 of this Act.
24 The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
25 effective date of sec. 1 of this Act.

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

28 CONDITIONAL EFFECT. Sections 2 - 5 of this Act take effect only if the validity of
29 the tax imposed by AS 43.52.010 - 43.52.900, enacted by sec. 1 of this Act, is challenged in
30 court and a court order finding the tax invalid is entered and becomes final. The
31 commissioner of revenue shall notify the lieutenant governor and the revisor of statutes of the

1 date of the court order described in this section.

2 * **Sec. 8.** If secs. 2 - 5 of this Act take effect under sec. 7 of this Act, they take effect on
3 January 1 of the year following the year in which the court order described in sec. 7 of this
4 Act becomes final.

5 * **Sec. 9.** Sections 6 and 7 of this Act take effect immediately.

6 * **Sec. 10.** Section 1 of this Act takes effect January 1, 2003.