

HOUSE BILL NO. 426

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

BY REPRESENTATIVES KOTT, McGuire, Harris, Williams, Fate, Foster

Introduced: 2/4/04

Referred: House Special Committee on Economic Development, International Trade, and Tourism, Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the levy and collection of an assessment on certain tourism-related
2 and recreation-related goods and services, to tourism marketing contracts, and to
3 vehicle rental taxes; and providing for an effective date."

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

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 SHORT TITLE. This Act may be known as the Sustainable Tourism and Recreation
8 Assessment Act.

9 * **Sec. 2.** AS 43.52 is amended by adding a new section to read:

10 **Sec. 43.52.095. Disposition of proceeds.** (a) The vehicle rental tax account
11 is created in the general fund.

12 (b) The proceeds of the assessments levied in AS 43.52.010 and 43.52.030
13 shall be deposited into the vehicle rental tax account.

14 (c) The legislature may appropriate 20 percent of the money in the vehicle

1 rental tax account to the Department of Community and Economic Development for
 2 the purpose of entering into a contract with a qualified trade association for tourism
 3 marketing under AS 44.33.125.

4 (d) The deposit required and appropriation authorized by this section are not
 5 intended to create a dedication in violation of art. IX, sec. 7, Constitution of the State
 6 of Alaska.

7 * **Sec. 3.** AS 44.33.125(a) is amended to read:

8 (a) Subject to appropriations for the purpose, the Department of Community
 9 and Economic Development shall, on or before April 1 of each fiscal year, contract
 10 with a single qualified trade association for the purpose of planning and executing a
 11 destination tourism marketing campaign during the next fiscal year. **If a sustainable**
 12 **tourism and recreation assessment under AS 44.33.126 is in effect when the**
 13 **contract is executed, the qualified trade association may not be required to**
 14 **provide matching funds. However, if a sustainable tourism and recreation**
 15 **assessment under AS 44.33.126 is not in effect when the contract is executed, the**
 16 [THE] contract may be **executed** [AWARDED] only if the qualified trade association
 17 provides matching funds equal to at least 60 percent of the costs of the marketing
 18 campaign described in the contract. The marketing campaign may promote distinct
 19 segments of tourism, such as highway tourism, seasonal tourism, ecotourism, cultural
 20 tourism, regional tourism, and rural tourism. Before the contract is executed, the
 21 marketing campaign plan must be approved by the department.

22 * **Sec. 4.** AS 44.33 is amended by adding new sections to read:

23 **Sec. 44.33.126. Sustainable tourism and recreation assessment.** (a) A
 24 sustainable tourism and recreation assessment is levied on

25 (1) the sale of scenic and sightseeing transportation services, including
 26 land, water, and aerial transportation, involving same-day return to the place of origin;

27 (2) rental of accommodations in a hotel, motel, bed and breakfast,
 28 recreational or vacation camp, recreational vehicle park, campground, or other
 29 commercial establishment providing short-term lodging if the rental does not exceed a
 30 period of 30 consecutive days;

31 (3) Alaska marine highway system passenger fares;

- 1 (4) Alaska railroad corporation passenger fares;
- 2 (5) Alaska railroad corporation passenger tour car towing charges;
- 3 (6) meals sold at salmon bakes; for purposes of this paragraph, a
4 salmon bake is an establishment offering exclusively fixed-price meals featuring
5 salmon or other seafood;
- 6 (7) goods sold by seasonal retail shops; for purposes of this paragraph,
7 "seasonal retail shop" means a retail store that makes more than 75 percent of its sales
8 on or after May 1 but before October 1 in each calendar year;
- 9 (8) the retail sale of arts and crafts made in Alaska and not subject to
10 assessment under (7) of this subsection;
- 11 (9) the retail sale of smoked Alaska fish and other foods produced in
12 Alaska and not subject to assessment under (7) of this subsection;
- 13 (10) the retail sale of gifts and souvenirs featuring Alaska images and
14 not subject to assessment under (7) of this subsection; for purposes of this paragraph,
15 (A) "Alaska images" includes the word "Alaska," the name or
16 image of a municipality in the state, the name or image of an Alaska landmark,
17 whether natural or constructed, the image of the stars of the "Dipper," a picture
18 or scene associated with Alaska, and images of bears, moose, caribou, seals,
19 walrus, whales, eagles, salmon, wolves, sled dogs, and other animals and
20 wildlife associated with Alaska; and
21 (B) "gifts and souvenirs" includes tee shirts, sweatshirts, and
22 other clothing, jewelry, glassware, cups, plates, cutlery, key chains, carvings,
23 statues, statuettes, clocks, books, paintings, prints, photographs, postcards,
24 calendars, and videos.
- 25 (b) The assessment in (a) of this section shall be levied if an election is held
26 under AS 44.33.129 at which the assessment is approved by eligible visitor industry
27 businesses that together account for at least 51 percent of the value of sales, leases,
28 and rentals described in (a) of this section and not exempt under AS 44.33.127. An
29 election shall be held if a majority of the board of a qualified trade association votes to
30 hold an election.
- 31 (c) The rate of the assessment is two percent.

1 (d) The provisions of AS 43.05 and AS 43.10 apply to the enforcement and
2 collection of the sustainable tourism and recreation assessment.

3 **Sec. 44.33.127. Exemptions.** The assessment levied under AS 44.33.126
4 does not apply to

5 (1) sales, leases, and rentals that are

6 (A) explicitly exempted from taxation under another provision
7 of state law; or

8 (B) exempt from taxation under federal law and purchases
9 made with

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

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

15 (2) sales and purchases by federal, state, or local government entities;

16 (3) sales, leases, or rentals made to an entity described in 26 U.S.C.
17 501(c)(3) (Internal Revenue Code) and exempt from federal income tax under 26
18 U.S.C. 501(a);

19 (4) sales, leases, or rentals made by an entity described in 26 U.S.C.
20 501(c)(3) (Internal Revenue Code) and exempt from federal income tax under 26
21 U.S.C. 501(a) if the income from the sale or rental is exempt from federal income
22 taxation;

23 (5) casual and isolated sales, leases, or rentals by a seller who does not
24 regularly engage in the business of selling goods or services or making rentals, but
25 only if the total sales or rentals do not exceed \$1,000 a year and the sales or rentals do
26 not occur for more than 14 days in a calendar year.

27 **Sec. 44.33.128. Termination of the sustainable tourism and recreation**
28 **assessment.** (a) A sustainable tourism and recreation assessment levied under
29 AS 44.33.126 shall be terminated by the commissioner of revenue if

30 (1) an election is held under AS 44.33.129 in which the termination is
31 approved by eligible visitor industry businesses that together account for at least 51

1 percent of the value of sales, leases, and rentals described in AS 44.33.126(a) and not
2 exempt under AS 44.33.127; or

3 (2) two-thirds of the board of a qualified trade association at a regular
4 meeting adopts a resolution requesting the commissioner of revenue to terminate the
5 assessment.

6 (b) An election under (a)(1) of this section shall be held if

7 (1) the proposed election for the termination of the assessment is
8 approved by a majority of the board of the qualified trade organization at a regularly
9 scheduled meeting; or

10 (2) a petition is presented to the director of elections requesting
11 termination of the assessment by eligible visitor industry businesses that together
12 account for at least 25 percent of the value of sales, leases, and rentals described in
13 AS 44.33.126(a) and not exempt under AS 44.33.127 during the calendar year.

14 (c) The qualified trade association shall provide notice of an election in
15 accordance with AS 44.33.129 within 60 days after receiving notice from the director
16 of elections that a valid petition under (b)(2) of this section has been received.

17 (d) The sustainable tourism and recreation assessment is terminated on the
18 effective date stated on the ballot.

19 **Sec. 44.33.129. Procedures for an election to approve or terminate a**
20 **sustainable tourism and recreation assessment.** (a) A qualified trade association
21 may conduct an election under this section after the director of elections approves the

22 (1) notice to be published by the qualified trade association;

23 (2) ballot to be used in the election; and

24 (3) registration and voting procedures for the approval or termination
25 of the sustainable tourism and recreation assessment.

26 (b) In conducting an election under this section, a qualified trade association
27 shall adopt the following procedures:

28 (1) the proposed levy or termination of the assessment shall be adopted
29 at a regularly scheduled meeting of the board held not less than 60 days before the
30 date on which the ballots must be postmarked to be counted unless the election is for
31 termination of the assessment and has been initiated by a petition under

1 AS 44.33.128(b)(2);

2 (2) the qualified trade association shall hold at least one meeting, not
3 less than 30 days before the date on which ballots must be postmarked to be counted,
4 to explain the reason for the proposed sustainable tourism and recreation assessment
5 or termination of the assessment and to explain the voting procedure to be used in the
6 election; the qualified trade association shall provide notice of the meeting by

7 (A) mailing the notice to each eligible visitor industry business;

8 and

9 (B) publishing the notice in at least one newspaper of general
10 circulation in each region of the state at least two weeks before the meeting;

11 (3) the qualified trade association shall mail ballots to each eligible
12 visitor industry business not more than 45 days before the date specified as the date
13 ballots must be postmarked;

14 (4) the ballot must

15 (A) state the rate at which the assessment is or is to be levied;

16 (B) indicate the effective date of the levy of the assessment or
17 termination of the assessment;

18 (C) ask whether the assessment shall be levied or, if the
19 election is to terminate the assessment, whether the assessment shall be
20 terminated;

21 (5) the ballots shall be returned by mail and shall be counted by the
22 director of elections or a representative.

23 (c) The director of elections shall certify the results of an election under this
24 section if the director determines that the requirements of (a) and (b) of this section
25 have been satisfied.

26 (d) For purposes of this section, a ballot submitted by a corporation is
27 presumed valid if the ballot is signed by an individual who is indicated to be an officer
28 of the corporation and the ballot is imprinted with the corporate seal.

29 **Sec. 44.33.131. Determination of sales.** Upon request from the director of
30 elections, the commissioner of revenue shall determine

31 (1) the total value of sales, leases, and rentals subject to assessment

1 under AS 44.33.126(a) and not exempt under AS 44.33.127 during the calendar year;

2 (2) whether, for purposes of AS 44.33.126(b) or 44.33.128(a), the
3 eligible visitor industry businesses approving the levy or termination of a sustainable
4 tourism and recreation assessment together produced at least 51 percent of the total
5 value of sales, leases, and rentals subject to assessment under AS 44.33.126(a) during
6 the calendar year; or

7 (3) whether the eligible visitor industry businesses petitioning for an
8 election under AS 44.33.128(b)(2) together produced at least 25 percent of the total
9 value of sales, leases, and rentals subject to assessment under AS 44.33.126(a) during
10 the calendar year.

11 **Sec. 44.33.132. Collection of assessment.** (a) A seller shall add the amount
12 of the assessment levied under AS 44.33.126 to the total price of the sale, lease, or
13 rental subject to the assessment, and the assessment shall be stated separately on any
14 sales receipt, invoice, or other record of the sale, lease, or rental.

15 (b) The person making the sale, lease, or rental shall collect the assessment
16 from the purchaser and remit the assessment collected to the department not later than
17 30 days following the last day of the month in which the assessment was collected.
18 However, a person that collects less than \$1,000 in assessments in a calendar quarter
19 may remit the assessments within 30 days following the last day of the calendar
20 quarter in which the assessment was collected.

21 (c) A person remitting the assessment collected under AS 44.33.126 to the
22 department as required under (b) of this section and filing a complete and timely
23 return on a form prescribed by the department may retain one percent of the amount
24 collected to cover expenses associated with collecting and remitting the assessment.

25 **Sec. 44.33.133. Exemption certificate.** The department shall provide
26 exemption certificates to persons and entities exempt from the assessment under
27 AS 44.33.127.

28 **Sec. 44.33.134. Disposition of proceeds.** (a) The sustainable tourism and
29 marketing account is created in the general fund.

30 (b) The proceeds of the assessment levied under AS 44.33.126 shall be
31 deposited into the sustainable tourism and marketing account.

1 (c) The legislature may appropriate the money in the sustainable tourism and
 2 marketing account to the Department of Community and Economic Development for
 3 the purpose of entering into a contract with a qualified trade association for tourism
 4 marketing under AS 44.33.125.

5 (d) The deposit required and appropriation authorized by this section are not
 6 intended to create a dedication in violation of art. IX, sec. 7, Constitution of the State
 7 of Alaska.

8 **Sec. 44.33.139. Definitions.** In AS 44.33.126 - 44.33.139,

9 (1) "board" means the board of directors of a qualified trade
 10 organization;

11 (2) "eligible visitor industry business" means a business that would be
 12 liable for payment of a sustainable tourism and recreation assessment under
 13 AS 44.33.126;

14 (3) "qualified trade organization" means the trade organization
 15 contracting with the Department of Community and Economic Development under
 16 AS 44.33.125 for the fiscal year.

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

19 APPLICABILITY. The amendments to AS 44.33.125 made in sec. 3 of this Act apply
 20 to contracts for tourism marketing entered into under AS 44.33.125 for fiscal years beginning
 21 July 1, 2006.

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

24 TRANSITION: REGULATIONS. The Department of Revenue may proceed to adopt
 25 regulations necessary to implement the provisions of this Act. The regulations take effect
 26 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
 27 provision being implemented. In adopting regulations implementing AS 44.33.126, the
 28 department shall strive for consistency with the 2002 North American Industrial Classification
 29 System (NAICS) codes system used by the United States Bureau of the Census for classifying
 30 business establishments.

31 * **Sec. 7.** Section 3 of this Act takes effect January 1, 2006.

1 * **Sec. 8.** Section 6 of this Act takes effect immediately under AS 01.10.070(c).

2 * **Sec. 9.** Except as provided in secs. 7 and 8 of this Act, this Act takes effect January 1,

3 2005.