

CS FOR HOUSE BILL NO. 426(EDT)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

**BY THE HOUSE SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT, INTERNATIONAL TRADE,
AND TOURISM**

Offered: 3/18/04

Referred: Labor and Commerce, Finance

Sponsor(s): REPRESENTATIVES KOTT, McGuire, Harris, Williams, Fate, Foster

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 sales, leases, and rentals, to tourism marketing contracts, and to**
3 **vehicle rental taxes; relating to Alaska marine highway system passenger fares; and**
4 **providing for an effective date."**

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

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

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

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

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

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

1 (c) The legislature may appropriate 20 percent of the money in the vehicle
 2 rental tax 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. 3.** AS 44.33.125(a) is amended to read:

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

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

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

26 (1) the sale of land, water, and air transportation of passengers, to the
 27 extent permitted by federal law, including transportation by plane, tramway, ski tow,
 28 ski lift, marine highway, and railroad;

29 (2) rental of accommodations in a hotel, motel, bed and breakfast,
 30 recreational or vacation camp, recreational vehicle park, campground, or other
 31 establishment, including an establishment owned or operated by the state or a

1 municipality, providing short-term lodging if the rental does not exceed a period of 30
2 consecutive days;

3 (3) the sale of recreational and adventure services, including guided
4 raft, kayak, and canoe trips, guided hiking trips, guided walking tours, guided motor
5 vehicle sightseeing tours, and fishing charters; and

6 (4) the sale on or after May 1, but before October 1, in each calendar
7 year of tickets to theater productions, revues, cabarets, movies, readings, and other
8 entertainment offerings that feature the gold rush, Soapy Smith, or other Alaska
9 historical themes or figures, and that appeal primarily to visitors.

10 (b) The rate of the assessment is two percent.

11 (c) The provisions of AS 43.05 and AS 43.10 apply to the enforcement and
12 collection of the sustainable tourism and recreation assessment.

13 (d) The Alaska marine highway system shall give a passenger who presents
14 proof of Alaska residency a two percent discount on the passenger's pre-tax fare.

15 **Sec. 44.33.127. Exemptions.** The assessment levied under AS 44.33.126
16 does not apply to

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

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

20 (B) exempt from taxation under federal law and purchases
21 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 and purchases by federal government entities;

28 (3) purchases by state or local government entities;

29 (4) sales, leases, or rentals made to an entity described in 26 U.S.C.
30 501(c)(3) (Internal Revenue Code) and exempt from federal income tax under 26
31 U.S.C. 501(a);

1 (5) sales, leases, or rentals made by an entity described in 26 U.S.C.
 2 501(c)(3) (Internal Revenue Code) and exempt from federal income tax under 26
 3 U.S.C. 501(a) if the income from the sale or rental is exempt from federal income
 4 taxation;

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

9 (7) transportation provided by a municipal bus service;

10 (8) transportation in a taxicab.

11 **Sec. 44.33.128. Termination of the sustainable tourism and recreation**
 12 **assessment.** (a) The commissioner of revenue shall terminate a sustainable tourism
 13 and recreation assessment levied under AS 44.33.126 if

14 (1) an election is held under AS 44.33.129 in which the termination is
 15 approved by eligible visitor industry businesses that together account for at least 51
 16 percent of the assessment paid under AS 44.33.126 - 44.33.139 for the prior calendar
 17 year; or

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

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

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

25 (2) a petition is presented to the director of elections requesting
 26 termination of the assessment by eligible visitor industry businesses that together
 27 account for at least 25 percent of the assessment paid under AS 44.33.126 - 44.33.139
 28 for the prior calendar year.

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

1 (d) The sustainable tourism and recreation assessment is terminated on the
 2 next December 31 occurring at least five months after the date of the certification of
 3 this election under AS 44.33.129.

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

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

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

9 (3) registration and voting procedures for the termination of the
 10 sustainable tourism and recreation assessment.

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

13 (1) the proposed termination of the assessment shall be adopted at a
 14 regularly scheduled meeting of the board held not less than 60 days before the date on
 15 which the ballots must be postmarked to be counted unless the election is for
 16 termination of the assessment and has been initiated by a petition under
 17 AS 44.33.128(b)(2);

18 (2) the qualified trade association shall hold at least one meeting, not
 19 less than 30 days before the date on which ballots must be postmarked to be counted,
 20 to explain the reason for the termination of the assessment and to explain the voting
 21 procedure to be used in the election; the qualified trade association shall provide
 22 notice of the meeting by

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

24 and

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

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

30 (4) the ballot must

31 (A) state the rate at which the assessment is levied;

1 (B) indicate the effective date of the termination of the
2 assessment if the termination is approved;

3 (C) ask whether the assessment shall be terminated;

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

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

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

12 **Sec. 44.33.131. Determination of sales.** (a) Upon request from the director
13 of elections, the commissioner of revenue shall determine

14 (1) the assessment paid under AS 44.33.126 - 44.33.139 for the prior
15 calendar year;

16 (2) whether, for purposes of AS 44.33.128(a), the eligible visitor
17 industry businesses approving the termination of a sustainable tourism and recreation
18 assessment together produced at least 51 percent of the assessment paid under
19 AS 44.33.126 - 44.33.139 for the prior calendar year; or

20 (3) whether the eligible visitor industry businesses petitioning for an
21 election under AS 44.33.128(b)(2) together produced at least 25 percent of the
22 assessment paid under AS 44.33.126 - 44.33.139 for the prior calendar year.

23 (b) Dollars paid with returns filed by providers for the calendar year shall be
24 considered probative of the amount of assessment paid for the calendar year, except
25 that the commissioner, at the commissioner's discretion, may substitute audit
26 assessments, claims for refund, or other pertinent evidence.

27 (c) A provider appealing the commissioner's determination shall be considered
28 aggrieved under AS 43.05.240. However, an appeal under that section may not delay
29 the commissioner's determination.

30 **Sec. 44.33.132. Collection of assessment.** (a) A provider shall add the
31 assessment levied in AS 44.33.126 to the total price of the sale, lease, or rental.

1 (b) The assessment shall be stated separately on any sales receipt, invoice, or
2 other record of the sale, lease, or rental.

3 (c) A provider shall collect the assessment from the person purchasing,
4 leasing, or renting the vehicle, accommodations, service, or ticket, and remit the
5 assessment to the department not later than 30 days following the last day of the
6 month in which the assessment was collected. However, a provider that collects less
7 than \$1,000 in assessments in a calendar quarter may remit the assessments within 30
8 days following the last day of the calendar quarter in which the assessment was
9 collected.

10 (d) A provider remitting the assessment collected under AS 44.33.126 to the
11 department as required under (c) of this section and filing a complete and timely return
12 on a form prescribed by the department may retain one percent of the amount
13 collected to cover expenses associated with collecting and remitting the assessment.

14 (e) If a provider pays an independent agent a commission or other fee for
15 selling or arranging the sale, lease, or rental of a vehicle, accommodations, service, or
16 ticket subject to the assessment levied in AS 44.33.126, that commission shall be
17 considered part of the price of the sale, lease, or rental subject to the assessment levied
18 in AS 44.33.126. The provider shall pay the assessment on the commission. An
19 independent agent is not required to collect or remit the assessment on any resale of a
20 sale, lease, or rental of a vehicle, accommodations, service, or ticket subject to the
21 assessment levied in AS 44.33.126.

22 (f) The person providing a vehicle, accommodations, service, or ticket subject
23 to the assessment levied in AS 44.33.126 is liable for payment of the full assessment,
24 regardless of whether the person has collected the assessment.

25 (g) In this section, "independent agent" means a travel agent or ticket broker
26 who purchases accommodations, services, or tickets from a provider and resells them
27 to a consumer, or who arranges the sale of accommodations, services, or tickets on
28 behalf of a provider, but is not an employee of the provider.

29 **Sec. 44.33.133. Exemption certificate.** The department shall provide
30 exemption certificates to persons and entities exempt from the assessment under
31 AS 44.33.127.

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

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

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

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

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

13 (1) "board" means the board of directors of a qualified trade
14 organization;

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

18 (3) "provider" means a person providing a vehicle, accommodations,
19 service, or ticket subject to the assessment levied in AS 44.33.126; "provider" does not
20 include an independent agent;

21 (4) "qualified trade organization" means the trade organization
22 contracting with the Department of Community and Economic Development under
23 AS 44.33.125 for the fiscal year.

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

26 APPLICABILITY. The amendments to AS 44.33.125 made in sec. 3 of this Act apply
27 to contracts for tourism marketing entered into under AS 44.33.125 for fiscal years beginning
28 July 1, 2005.

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

31 TRANSITION: REGULATIONS. The Department of Revenue may proceed to adopt

1 regulations necessary to implement the provisions of this Act. The regulations take effect
2 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
3 provision being implemented.

4 * **Sec. 7.** Section 6 of this Act takes effect immediately under AS 01.10.070(c).

5 * **Sec. 8.** Except as provided in sec. 7 of this Act, this Act takes effect January 1, 2005.