

SENATE BILL NO. 254

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

BY SENATOR THERRIAULT

Introduced: 1/12/04

Referred: 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, and repealing the levy of excise taxes of**
3 **certain passenger and recreation vehicles; 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 44.33 is amended by adding new sections to read:

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

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

14 (2) the lease or rental of a passenger vehicle in this state if the lease or

1 rental does not exceed a period of 90 consecutive days; for purposes of this paragraph,
 2 "passenger vehicle" means a motor vehicle as defined in AS 28.40.100 that is driven
 3 or moved on a highway or other public right-of-way in the state, but does not include

4 (A) a commercial motor vehicle as that term is defined in
 5 AS 28.40.100;

6 (B) emergency or fire equipment that is necessary to the
 7 preservation of life or property;

8 (C) a farm vehicle that is controlled and operated by a farmer,
 9 used to transport agricultural products, farm machinery, or farm supplies to or
 10 from that farmer's farm, not used in the operations of a common or contract
 11 motor carrier, and used within 150 miles of the farmer's farm; or

12 (D) a recreational vehicle;

13 (3) the lease or rental of a recreational vehicle in this state if the lease
 14 or rental does not exceed a period of 90 consecutive days; in this paragraph,
 15 "recreational vehicle" means

16 (A) a motor vehicle or trailer for recreational dwelling
 17 purposes;

18 (B) a motor home or other vehicle with a motor home body
 19 style;

20 (C) a one-piece camper vehicle; and

21 (D) any other self-propelled vehicle with living quarters;

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

26 (5) Alaska marine highway system passenger fares;

27 (6) Alaska railroad corporation passenger fares;

28 (7) Alaska railroad corporation passenger tour car towing charges;

29 (8) meals sold at salmon bakes; for purposes of this paragraph, a
 30 salmon bake is an establishment offering exclusively fixed-price meals featuring
 31 salmon or other seafood;

1 (9) goods sold by seasonal retail shops; for purposes of this paragraph,
2 "seasonal retail shop" means a retail store that makes more than 75 percent of its sales
3 on or after May 1 but before October 1 in each calendar year;

4 (10) commissions paid to a third party for arranging a sale, lease, or
5 rental included in (1) - (9) of this subsection.

6 (b) The assessment in (a) of this section shall be levied if an election is held
7 under AS 44.33.129 at which the assessment is approved by eligible visitor industry
8 businesses that together account for at least 51 percent of the value of sales, leases,
9 and rentals described in (a) of this section and not exempt under AS 44.33.127. An
10 election shall be held if a majority of the board of a qualified trade association votes to
11 hold an election.

12 (c) The rate of the assessment shall be proposed by the majority of the board
13 of a qualified trade association and approved by eligible visitor industry businesses
14 that together account for at least 51 percent of the value of sales, leases, and rentals
15 described in (a) of this section and not exempt under AS 44.33.127. The board may
16 propose an assessment rate of two percent, three percent, or four percent.

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

19 **Sec. 44.33.127. Exemptions.** The assessment levied under AS 44.33.126
20 does not apply to

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

22 (A) explicitly exempted from taxation under another provision
23 of state law; or

24 (B) exempt from taxation under federal law and purchases
25 made with

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

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

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

1 (3) sales, leases, or rentals made to 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);

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

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

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

15 (1) an election is held under AS 44.33.129 in which the termination is
16 approved by eligible visitor industry businesses that together account for at least 51
17 percent of the value of sales, leases, and rentals described in AS 44.33.126(a) and not
18 exempt under AS 44.33.127; or

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

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

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

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

30 (c) The qualified trade association shall provide notice of an election in
31 accordance with AS 44.33.129 within 60 days after receiving notice from the director

1 of elections that a valid petition under (b)(2) of this section has been received.

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

4 **Sec. 44.33.129. Procedures for an election to approve or terminate a**
5 **sustainable tourism and recreation assessment.** (a) A qualified trade association
6 may conduct 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 approval or termination
10 of the 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 levy or termination of the assessment shall be adopted
14 at a regularly scheduled meeting of the board held not less than 60 days before the
15 date on 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 proposed sustainable tourism and recreation assessment
21 or termination of the assessment and to explain the voting procedure to be used in the
22 election; the qualified trade association shall provide 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 to be levied;

1 (B) indicate the effective date of the levy of the assessment or
2 termination of the assessment;

3 (C) ask whether the assessment shall be levied or, if the
4 election is to terminate the assessment, whether the assessment shall be
5 terminated;

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

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

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

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

16 (1) the total value of sales, leases, and rentals subject to assessment
17 under AS 44.33.126(a) and not exempt under AS 44.33.127 during the calendar year;

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

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

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

31 (b) The person making the sale, lease, or rental shall collect the assessment

1 from the purchaser and remit the assessment collected to the department not later than
 2 30 days following the last day of the month in which the assessment was collected.
 3 However, a person that collects less than \$1,000 in assessments in a calendar quarter
 4 may remit the assessments within 30 days following the last day of the calendar
 5 quarter in which the assessment was collected.

6 (c) A person remitting the assessment collected under AS 44.33.126 to the
 7 department as required under (b) of this section and filing a complete and timely
 8 return on a form prescribed by the department may retain

9 (1) one percent of the amount collected to cover expenses associated
 10 with collecting and remitting the assessment; and

11 (2) an amount equal to the total of assessments that were paid by the
 12 person for the purchase at wholesale of goods or services for resale, but only if the
 13 purchased goods or services have been resold and the assessment has been collected
 14 on that resale.

15 (d) If a person selling for resale a good or service subject to the assessment
 16 levied under AS 44.33.126 fails to collect the assessment, the purchaser purchasing the
 17 item for resale shall remit the assessment to the department not later than 30 days
 18 following the last day of the month in which the purchase was made.

19 **Sec. 44.33.133. Exemption certificate.** The department shall provide
 20 exemption certificates to persons and entities exempt from the assessment under
 21 AS 44.33.127.

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

24 (b) The proceeds of the assessment levied under AS 44.33.126 shall be
 25 deposited into the sustainable tourism and marketing fund.

26 (c) The legislature may appropriate the funds in the sustainable tourism and
 27 marketing fund to the Department of Community and Economic Development for the
 28 purpose of entering into a contract with a qualified trade association for tourism
 29 marketing under AS 44.33.125.

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

1 of Alaska.

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

3 (1) "board" means the board of directors of a qualified trade
4 organization;

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

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

11 * **Sec. 3.** AS 43.52.010, 43.52.020, 43.52.030, 43.52.040, 43.52.050, 43.52.060, 43.52.070,
12 43.52.080, 43.52.090, and 43.52.099 are repealed.

13 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

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

22 * **Sec. 5.** Section 4 of this Act takes effect immediately under AS 01.10.070(c).

23 * **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect January 1, 2005.