

**ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON ECONOMIC
DEVELOPMENT, INTERNATIONAL TRADE AND TOURISM**

January 27, 2004

10:07 a.m.

MEMBERS PRESENT

Representative Cheryll Heinze, Chair
Representative Lesil McGuire, Vice Chair
Representative Pete Kott
Representative Nancy Dahlstrom
Representative Vic Kohring (via teleconference)
Representative Sharon Cissna
Representative Harry Crawford

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Nick Stepovich

COMMITTEE CALENDAR

HOUSE BILL NO. 207

"An Act relating to taxes regarding certain commercial passenger vessels operating in the state; and providing for an effective date."

- HEARD AND HELD; ASSIGNED TO SUBCOMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 207

SHORT TITLE: TAX ON COMMERCIAL VESSEL PASSENGERS

SPONSOR(S): REPRESENTATIVE(S): GATTO

03/24/03	(H)	READ THE FIRST TIME - REFERRALS
03/24/03	(H)	EDT, TRA, FIN
01/27/04	(H)	EDT AT 10:00 AM CAPITOL 120

WITNESS REGISTER

REPRESENTATIVE CARL GATTO
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Spoke as sponsor of HB 207.

CODY RICE, Staff

to Representative Carl Gatto

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Explained changes in HB 207.

DAN DICKINSON, Director

Tax Division

Department of Revenue

Anchorage, Alaska

POSITION STATEMENT: During hearing on HB 207, explained the figures represented in the tables included in the sponsor statement.

SUSAN BURKE, Attorney

Gross & Burke, PC

Juneau, Alaska

POSITION STATEMENT: Representing the North West Cruise Ship Association, testified on the constitutional issues that cover the types of taxes involved with HB 207.

TOM DOW, Vice President

Public Affairs

Carnival Corporation;

Princess Cruises

Seattle, Washington

POSITION STATEMENT: Testified on the legal and economic issues that would arise if the legislature passed HB 207.

DON HABEGER, Director of Industry Relations

Royal Caribbean International;

Celebrity Cruises

Juneau, Alaska

POSITION STATEMENT: During hearing on HB 207, spoke to the ramifications of "port pulling" and illustrated how the cruise industry works with communities to create destinations.

JOHN SHIVELY, Vice President

Government and Community Relations

Holland America Line

Anchorage, Alaska

POSITION STATEMENT: During hearing on HB 207, commented on the state of the cruise ship industry and addressed the taxation of the cruise industry.

CHRIS ANDERSON, Co-Owner and Managing Partner
Orso Ristorante and Glacier Brewhouse
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the tax proposed
in HB 207.

JOHNE BINKLEY, President
Alaska Riverways, Inc.
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition of HB 207.

LAWRENCE BLOOD, Executive Director
Greater Sitka Chamber of Commerce
Sitka, Alaska

POSITION STATEMENT: During hearing on HB 207, spoke in
opposition to any targeted taxes towards the cruise industry.

CHRIS VON IMHOF, Vice-President and Managing Director
Alyeska Resort
Girdwood, Alaska

POSITION STATEMENT: During hearing on HB 207, testified that
the cruise ship industry creates a major economic benefit for
all of Alaska with the investments that the industry makes
within the state.

ALAN LEMASTER, President
Gakona Junction Village Inc.
Gakona, Alaska

POSITION STATEMENT: During hearing on HB 207, said his business
depends on the cruise industry and voiced concern that a
targeted tax would limit the amount of business in Gakona.

RON PECK, President and Chief Operating Officer
Alaska Travel Industry Association (ATIA)
Anchorage, Alaska

POSITION STATEMENT: During hearing on HB 207, testified against
specific and targeted taxes because the ATIA believes they are
burdensome to the tourism industry.

PATTI MACKEY, Executive Director
Ketchikan Visitors Bureau
Ketchikan, Alaska

POSITION STATEMENT: Speaking against HB 207, shared concern the
about potential impacts on individual communities and their
abilities to negotiate with the cruise lines.

BONNIE QUILL, Executive Director
Mat-Su Convention and Visitors Bureau
Palmer, Alaska

POSITION STATEMENT: During the hearing on HB 207, testified that she wasn't opposed to taxing visitors to the state, but is opposed to targeted taxes applied to visitors.

ACTION NARRATIVE

TAPE 04-1, SIDE A

Number 0001

CHAIR CHERYLL HEINZE called the House Special Committee on Economic Development, International Trade and Tourism meeting to order at 10:07 a.m. Representatives Heinze, Kott, Dahlstrom, Cissna, and Crawford were present at the call to order. Representatives McGuire and Kohring (via teleconference) arrived as the meeting was in progress. Representative Stepovich was also present.

HB 207-TAX ON COMMERCIAL VESSEL PASSENGERS

Number 0058

CHAIR HEINZE announced that the only order of business would be HOUSE BILL NO. 207, "An Act relating to taxes regarding certain commercial passenger vessels operating in the state; and providing for an effective date." She also stated that the intention was not to move the bill from committee today.

Number 0125

REPRESENTATIVE KOTT moved to adopt the proposed committee substitute (CS), Version 23-LS0850\I, Kurtz, 1/21/04, as a work draft. There being no objection, Version I was before the committee.

Number 0149

REPRESENTATIVE CARL GATTO, Alaska State Legislature, sponsor, explained that HB 207 is a reasonable, realistic, and legal way for the state to obtain money from the cruise ship industry for services rendered and received. He pointed out that it is common practice to focus taxes on specific industries, and that this bill was an attempt to recover the costs that the cruise ships impose on the state.

REPRESENTATIVE KOTT asked Representative Gatto to point out the differences in [Version I] and give an explanation for the changes.

REPRESENTATIVE GATTO deferred to Mr. Rice.

Number 0411

CODY RICE, Staff to Representative Carl Gatto, Alaska State Legislature, explained that the changes in Version I dealt with moving the effective date of the bill and some number changes that occurred because of a rental-car tax passed during the last session of the previous legislature.

REPRESENTATIVE KOHRING offered his opinion that the tax proposed by HB 207 wasn't the thing to do to boost the productivity of the economy. He said he is worried that taxing the cruise ships will discourage them from coming to the state.

Number 0717

REPRESENTATIVE KOTT asked if there was any consideration given to establishing a tax based on the number of ports visited, to the price of the ticket, or the number of days in the cruise.

REPRESENTATIVE GATTO explained that a typical cruise ship passage to Alaska lasts seven days, with visits to four ports. He noted that if the cruise was going to the Caribbean or to Mexico, often there is a fee paid for each port visited. Rather than doing that in Alaska and causing competition between different ports, he wants to impose a single tax on all cruise ships, let the cruise industry decide the best destinations, and use the money generated from this tax to support those communities that host cruise ships. He went on to explain that there is a limit on the number of times a person can be taxed within a 30-day period. He also has some ideas on other ways to make the passengers of the cruise ships happy, like giving them a family rate.

REPRESENTATIVE MCGUIRE asked Representative Gatto if there was any wording in the bill that set the maximum tax per family.

REPRESENTATIVE GATTO answered that it wasn't in the bill, but is something he is open to. He wants to use the input that he gathers to make this bill as beneficial to the state as possible.

Number 0990

REPRESENTATIVE MCGUIRE asked for clarification on the idea that the state would collect this tax, but then disburse it to those ports that the cruise ships visits. She didn't see any wording in the bill for that to happen, and was curious as to how that could happen, since the government cannot have dedicated revenues. She wanted to know if this was a case of municipal revenue sharing.

REPRESENTATIVE GATTO noted that it was complicated, but he would like to put intent language into the bill so those ports that can host a cruise ship would get a large portion of this money to enhance the cruise ship experience. He would like to spread this money out to each place that can host cruise ships because, he stated, the cruise ships like to change their destinations. He would like for these destinations to have the funding to increase advertising and to enhance the customer's experience.

REPRESENTATIVE MCGUIRE asked why the state was a better collector of these revenues than the local government that would ultimately use these revenues.

REPRESENTATIVE GATTO explained the practice of "port pulling," and he doesn't want a situation where separate communities compete for the cruise ships by lowering their tax, or giving more resources, ultimately offering to impose no tax and dedicating a lot of resources in order to lure the cruise ships. He remarked that the state has some interest since the state does incur some expenses because of the cruise ships, and this bill would allow the state to recover some of those expenses.

Number 1205

REPRESENTATIVE KOHRING offered that this legislation has no positive impact on the cruise ship industry. He stated that it is his goal to help improve the economy and therefore encourage more cruise ships to visit Alaska. He feels that taxing the industry is a major philosophical issue that he doesn't agree with. He understands that the bill has good intentions and that Representative Gatto has his heart in the right place, but he feels concern that passing this bill will deter cruise ships from coming to Alaska. He also suggested that the committee send this issue to subcommittee to further discuss the topic.

REPRESENTATIVE GATTO stated that he does not favor the bill's going to a subcommittee. He went on to explain that the use of

the word "tax" is incorrect when referring to this bill; this is more of a user fee. He referred to a document from the Office of the Governor dated January 27, 2004. He read a statement from a page of that document labeled "State Costs Incurred Supporting the Visitor Industry in Alaska," which states in part [original punctuation provided]:

In Brief, DOL's [Department of Law's] conclusion is that is entirely possible to construct a defensible tax which falls on cruise ship accommodations as long as it is used to recoup, through taxes, related governmental expenses. Table 19 sets forth one such preliminary estimate of government expense for the current fiscal year. As can be seen, public money spent far exceeds what will be recouped in tax. Because of the enormous amount of spending by state visitors with Alaskan merchants and service providers, it is entirely appropriate that the state government subsidizes the visitor industry. This is especially true in areas where the expenditures can benefit everyone, visitor and non-visitor alike. However, it is also entirely appropriate, and legal, for the state to recoup some of those expenses through its taxing power.

Number 1410

REPRESENTATIVE GATTO cited from a spreadsheet in the earlier mentioned document that the expenses potentially attributable to the cruise industry equal \$115,861,000. He said if that is the case, that number is more than the revenue from this tax by almost two to one, if the tax was \$100. He continued that cruise ships cost the state a certain amount of money, and although the state appreciates the business, the state is looking to recoup some of that money. This fee doesn't try to get all of the money back, partly because the cruise ships provide many jobs and generate income for people. This fee is to get some of that money back to use on other things, namely, education and facilities.

REPRESENTATIVE MCGUIRE asked a question about what "incentive" refers to in the "Cruise Ship Fees-Other Countries" table in the document obtained from Governor Murkowski's office.

REPRESENTATIVE GATTO answered that he didn't know.

Number 1561

DAN DICKINSON, Director, Department of Revenue, Tax Division, informed the committee that incentives, as used in the "Cruise Ship Fees-Other Countries" table, are volume incentives designed to lower the head tax for cruise ships based on the number of tourists brought to the specific locations.

CHAIR HEINZE explained that this issue was a little difficult to discuss, since the committee had just received the documents and would probably have to come back to the issue at a later time.

REPRESENTATIVE KOTT noted that the information seemed speculative and hard to track.

CHAIR HEINZE asked Mr. Dickinson to address whether the tables dealt with user fees and if he could further explain them.

MR. DICKINSON explained that the numbers on the table are based on estimates for state agencies that are effected by tourists and how much spending those agencies attribute to the cruise ship industry. He noted that there were some state departments that were effected by the cruise ship industry, but there wasn't sufficient data to make an estimate.

CHAIR HEINZE asked if these numbers reflected the user fees that are already in place.

MR. DICKINSON wasn't sure, but said he would check on that for the committee.

Number 1730

SUSAN BURKE, Attorney, Gross & Burke, PC, Representing North West Cruise Ship Association, testified on the constitutional issues that cover the types of taxes that are involved with HB 207. She said the two issues she would be focusing on are the tonnage clause and the right of interstate travel from the privileges and immunities clause in the U.S. constitution. She said state or local governments aren't allowed to impose taxes on vessels based on the capacity of the vessel or the number of passengers that vessel has. She offered that state and local governments can impose user fees. She said cruise ships are already paying harbor dues and other fees in every port they enter in Alaska. Ms. Burke stated that there are limitations on these fees. She said based on the right of interstate travel, the U.S. Supreme Court says the state or local government cannot impose "head taxes" for the purpose of generating general

revenue to use on whatever it sees fit. The user fees that have been upheld in the Supreme Court have been relatively small fees that defray the costs of the services or facilities that those passengers actually use.

MS. BURKE cited an example of airports where the U.S. Supreme Court has upheld a small fee per passenger to help maintain the building. She noted that the fee wasn't used to help pave the roads that inevitably those passengers will drive on to get to the airport. She said there has to be a direct linkage between the total amount of revenues generated and the costs that can be reasonably attributed to those particular passengers.

MS. BURKE noted that Congress passed a law in the fall of 2002 that sets the restrictions on the kinds of taxes that state and local governments can impose on vessels, vessel crews, or vessel passengers. The law follows closely what the courts have upheld relating to vessel taxes, head taxes, and passenger taxes. She believes that this law applies to vessels passing through the waters as well as to vessels that dock at a particular location.

Number 2042

CHAIR HEINZE asked Ms. Burke who ultimately decides if this bill is legal or not.

MS. BURKE said she felt it made no sense to adopt legislation that would be vulnerable to a successful legal attack. She acknowledged that the committee was sworn to uphold the constitution, and that she felt it was irresponsible for the legislature to pass a law that would ultimately prove to be illegal.

REPRESENTATIVE MCGUIRE asked if Ms. Burke was aware of any other states that had prohibitions on dedicated funds.

MS. BURKE answered that she didn't know what states had that prohibition, but could find out for the committee. She added that municipalities in Alaska were not restricted to dedicating funds.

Number 2180

REPRESENTATIVE CISSNA asked Representative Gatto if he had a statement from Legislative Legal and Research Services regarding the [constitutionality] of this piece of legislation.

REPRESENTATIVE GATTO said he has had discussion with Legislative Legal and Research Services, but didn't (indisc.).

REPRESENTATIVE CISSNA said she felt it was appropriate for the committee to see a letter from Legislative Legal and Research Services.

Number 2254

MS. BURKE said she has a letter from Kathryn Kurtz in Legislative Legal and Research Services addressed to Senator Cowdery on March 19, 2003; she paraphrased a portion of this letter stating that caution should certainly be in order in imposing any fee or tax exclusively on vessels unless the proceeds are used to provide services to the vessel. Ms. Burke concluded that her opinions aren't controversial if attorneys seem to be agreeing with them.

Number 2317

TOM DOW, Vice President of Public Affairs, Carnival Corporation; Princess Cruises, said he agrees with Ms. Burke's testimony that there are insurmountable legal problems with the approach of taxing nonresidents to pay for government services. He agreed that the cruise lines should, and do, pay for facilities and services.

TAPE 04-01, SIDE B

MR. DOW shared that he thought there was a significant economic issue involved with the tax proposed by HB 207. He stated that his research indicates that the tax would be a serious threat to Interior Alaska, pointing out that a number of people who take a cruise to Alaska participate in some of the add-on programs that allow them to visit one or more locations in the Interior. Carnival Corporation believes that if the state imposes a \$100 tax, the number of people who choose this add-on feature will decrease and it will have a dramatic negative impact on the economy.

Number 2304

REPRESENTATIVE KOTT expressed concern about the impact on Interior Alaska. He asked if there was any raw data to support the claim that there would be a negative impact based on an example from another state or country.

MR. DOW noted that in the sponsor's packet, the North West Cruise Ship Association surveyed 1,200 people who had indicated by writing to the state that they planned on making a trip to Alaska. The survey showed that up to half of these people would change their plans, as far as taking one or more of the add-on excursions, based on the type of tax that is proposed by HB 207. He stated that it doesn't take very much to drive people in one direction or another. He added that sometimes political or economic circumstances can have a dramatic impact on travel.

MR. DOW shared his opinion that the success that the cruise ship industry has had in Alaska has come from offering a more inviting product [than in other cruises], with no more cost. Mr. Dow stated that this has happened because of the investments that the cruise ship industry has made, as well as the investments that their partners have made throughout the state by offering better and more exciting things for the customers to do, all the while holding their prices down. He shared that the idea is to offer more without charging more, and this legislation is doing the exact opposite. He said that, in essence, [the tax will result in] offering the same product, but charging more money.

Number 2202

CHAIR HEINZE asked if the cruise lines paid corporate taxes on the hotels that they use in the Interior.

MR. DOW answered that both Princess Cruises and Holland America Line ("Holland America") pay corporate income taxes on their Alaska business operations, rail cars, motor coach operations, lodges, and hotels throughout the state.

Number 2193

REPRESENTATIVE KOTT inquired if the questionnaire that the North West Cruise Ship Association used for the previously mentioned survey would be available for the committee to see, stating that sometimes questionnaires are written to illicit a certain response.

MR. DOW stated that he could get that questionnaire. He went on to add that Carnival Corporation has real-time research on this issue every day. He said that Carnival Corporation has travel agents and reservation agents throughout its three companies that are on the phones with customers every day. He pointed out that the reservation volume has increased if the company dropped

the price by as little as \$5, and he feels that if the company raised the price by \$100, it would have a dramatic negative effect.

Number 2197

DON HABEGER, Director of Industry Relations, Royal Caribbean International; Celebrity Cruises, spoke in agreement with Mr. Dow and stated that he wanted to address the specific issue of "port pulling" rather than reiterate the comments by Mr. Dow. He disagreed with the previous point that one, or both, of the communities were harmed by "port pulling." He made the point that this wasn't the case in the project in Hoonah. He stated that although it was true that Holland America is choosing to go to a different destination in 2004 [Hoonah], and that there is a community in Southeast Alaska that is going to lose some of the cruise ship traffic [Sitka]. He expressed that it is not true that the community that Holland America is leaving is irreparably harmed and that Hoonah is undercutting the other community's business.

MR. HABEGER stressed that Holland America is spending a substantial amount of money to create a destination with the community of Hoonah, and that money is far in excess of what Sitka will be losing. Holland America feels that Hoonah is benefiting greatly from this project.

Number 2052

JOHN SHIVELY, Vice President of Government and Community Relations, Holland America Line, commented on the state of the cruise ship industry as it exists today. He indicated that 10 or 15 years ago, basically the cruise industry destinations were the Caribbean in the winter and Alaska in the summer, so Alaska didn't have a lot of competition in the summer. This is no longer the case. He cited many different ports in the Caribbean that are open year-round, and also noted that the East Coast is now offering an Eastern Canada run that directly competes with Alaska cruises. He said that Mexican cruises compete with Holland America, and that Norwegian Cruise Lines is putting three or four year-round ships in Hawaii. He provided that although the Alaskan cruise business has grown over the years, it has lost world market share because of competition.

MR. SHIVELY referred to the testimony offered by Representative Gatto earlier in the committee meeting, citing the tables that were included in the document obtained from the Office of the

Governor dated January 27, 2004. He pointed out that in that report it shows the current fees that the cruise ship industry already pays in Alaska's ports.

MR. SHIVELY also indicated that Representative Gatto suggested that one of the advantages of this legislation is that it would allow the state to collect this money and that the local governments wouldn't have to. He explained that there is nothing in the legislation to prevent the local governments from collecting the fees and taxes that are already in place, stating that because of this legislation the cruise ship industry would be taxed twice. He addressed the information presented in the document referring to expenses potentially attributable to the cruise industry, cited the table pointing out examples of what he thought were inaccuracies, and asked the committee not to rely on this document.

Number 1892

REPRESENTATIVE KOTT noted that since [the terrorist attacks of September 11, 2001] there has been a significant impact on tourism around the country. He asked what the industry's status is today relating to volume of passengers and ticket prices, compared with where they were prior to those attacks.

MR. DOW shared that Alaska was probably hurt less than other places because it was a domestic destination, it was a long lead-time item, and the attacks happened at the end of the tourist season. He surmised that if the attacks would have happened in July, it would have probably had a much greater impact. He noted that it impacted some of the vessels because [Carnival Corporation] couldn't fly passengers in or out. He added that the greater impact dealt with pricing. He shared that most commercial vessels, with a few exceptions, will fill their ships at some price. That is why he feels the extra \$100 will have a negative impact on the business. He added that the tourist industry is recovering from the terrorist attacks of September 11, 2001, but it is not where it was prior to those attacks. He reiterated that Alaska has had fewer problems because it is a domestic destination, but there have been more costs for the cruise lines to provide security and other measures.

Number 1796

CHAIR HEINZE asked for specific reasons Alaska has lost its percentage of the world market cruise business.

MR. SHIVELY attributed the lost share to Alaska's being more expensive than other markets, namely, the Caribbean. He continued that the industry has expanded its capacity worldwide, so cruise lines have had to look for other venues that were not needed a few years ago.

CHAIR HEINZE sought clarification on the total amount of money spent by the cruise industry on marketing Alaska, and how much it helps Alaska Travel Industry Association (ATIA) with its marketing of Alaska.

MR. HABEGER estimated that, collectively, the cruise lines spend \$70 million a year on marketing Alaska, and contribute an extra \$2 million a year to ATIA.

MR. DOW added that that figure was about half of the private-sector contributions.

Number 1722

CHAIR HEINZE inquired if the money contributed to ATIA was required.

MR. HABEGER responded that they are not required to contribute the \$2 million, that each cruise line has joined the ATIA voluntarily, and that the different cruise lines donate the money because the industry feels that Alaska is an important destination.

CHAIR HEINZE asked if the money donated to ATIA was used specifically for the cruise industry.

MR. HABEGER answered that the money is given to ATIA, and through ATIA's marketing committee the money is disbursed to many businesses throughout the state. He added that the money typically goes to the "Alaska travel planner," and that he believes that this year the ATIA is buying some television advertising time to market Alaska as a destination.

Number 1693

MR. SHIVELY added that most of the marketing in the Alaska travel planner was directed towards independent travel, not the cruise lines. He stated that the cruise industry supports the Alaska travel planner for the good of the cause, noting that many of the business partners rely heavily on the Alaska travel

planner, and that the cruise lines think that supporting the Alaska travel planner provides a good benefit to the overall business in the state.

REPRESENTATIVE KOTT asked for total amount the cruise lines pay in fees at the different ports at this time.

MR. SHIVELY estimated that the industry pays between \$15 million and \$20 million a season in fees for usage of Alaskan ports.

Number 1608

MR. DOW estimated that the cruise lines spend about \$200,000 a week in Alaska on docking and facility fees, making the amount per passenger in the \$20 to \$25 range. He noted that based on the number of ports the cruise visits, and whether they are private or public docks, the total amount per passenger would vary. He said that he could provide a more comprehensive listing if the committee desired.

REPRESENTATIVE KOTT inquired about the length of cruises in Alaska.

MR. DOW responded that the majority of the cruises are seven days, accounting for about 85 to 90 percent of the traffic. He continued that there are cruises as long as fourteen days, but more likely ten or eleven days. He added that there are a few two-to three-day "sampler" cruises that the industry has at the beginning or end of a season.

Number 1544

REPRESENTATIVE KOTT asked if there were many passengers that took a roundtrip cruise from Seattle to Seward.

MR. DOW acknowledged that it was possible for passengers to take that trip, but stated that very few do. He explained that there are Vancouver [British Columbia] and Seattle "Inside Passage roundtrips" that usually take seven days; some of those cruises last three or four days, with the passengers getting off the vessel and going up to the Yukon Territory and into the Interior of Alaska.

Number 1511

REPRESENTATIVE CRAWFORD asked about the length, in weeks, of the tourist season.

MR. DOW responded that the tourist season lasts 18 to 20 weeks, with the bulk of the business in the 120-day period between the middle of May and the middle of September.

REPRESENTATIVE CRAWFORD, noting the pitfalls in the approach taken by this particular bill, asked if there was a better approach the cruise lines could offer.

MR. SHIVELY answered, as an Alaskan, that if there were an income tax or a sales tax, the cruise industry would contribute substantially. He said the cruise industry would contribute because it has 16,000 to 18,000 employees, and those employees would contribute if there were an income tax. He continued that if there were a sales tax, the employees, as well as the passengers of the vessels, would contribute to that tax. He noted the sales tax figures in Ketchikan and Juneau and compared the money collected in the fall and winter to the money collected in the spring and summer to emphasize his point about the impact the cruise ships have in this area.

Number 1434

REPRESENTATIVE CRAWFORD asked for more suggestions.

MR. SHIVELY shared that the cruise industry is unlike other businesses because it is not exporting anything from Alaska and reselling it; it is importing spenders. He suggested taxing the spending so the burden falls evenly on everyone, not just the tourists or cruise passengers.

CHAIR HEINZE asked for confirmation that the airlines bring in a little over 400,000 people annually, and that the cruise lines bring in a little over 800,000 people annually who spend \$1,240 on average.

MR. DOW confirmed those estimates, citing the state travel association, stating he believed that those were reasonable estimates based on the average cruise passenger who spends a little more than seven days in Alaska and that those passengers typically save money before they arrive in Alaska and spend it when they get to Alaska.

REPRESENTATIVE KOTT shared his idea on allowing casino gaming within the state waters.

Number 1304

CHRIS ANDERSON, Co-Owner, Managing Partner, Orso Ristorante and Glacier Brewhouse, testified that he is not in favor of the tax proposed in HB 207. He said his business relies on the money spent by the tourists, and in his experience, the discounted traveler spends less money. He supports any legislation that would encourage more tourism in Anchorage, but said it was ill-advised to add more costs to travel during this time of economic recovery.

Number 1210

JOHNE BINKLEY, President, Alaska Riverways, Inc., testified in opposition to HB 207 for two basic reasons. He said it will have a negative effect on his family's business, noting that the business is highly dependent on cruise ship passengers that continue their vacation into the Interior of Alaska. He continued that since [the terrorist attacks of September 11, 2001], the competition has tightened up for visitors coming to Alaska and that the customers have become much more price conscious. Based on that, Mr. Binkley has seen a substantial decline in the number of cruise ship passengers who come to the Interior. He continued that in an effort to cope with that decline, the only way he can cut costs is to hire fewer employees, since the fuel costs, insurance costs, and maintenance costs have gone up. He stated that Alaska Riverways, Inc., has also raised its marketing budget to entice customers to its business.

MR. BINKLEY said he also opposes this legislation because unlike the other major industries - namely, the oil and timber industries, which have only a few major producer - the tourism industry is ubiquitous. Mr. Binkley feels that any solution should be broad based in nature, instead of trying to target one segment of the industry to bear the burden.

Number 1061

CHAIR HEINZE inquired as to the amount of passengers from the cruise ships that Mr. Binkley feels are customers of his business.

MR. BINKLEY estimated that tens of thousands of people from the cruise ships come to Fairbanks and patronize his two attractions.

Number 1013

LAWRENCE BLOOD, Executive Director, Greater Sitka Chamber of Commerce, spoke in opposition to any targeted taxes towards the cruise industry. Referring to the sponsor statement for HB 207 Mr. Blood noted that there were inconsistencies in the formulation of the actual costs incurred by the State of Alaska attributed to the cruise ship industry. He cited that the cruise ships are estimated to bring in 807,000 passengers into Alaska [next tourist season], amounting to \$80.7 million in taxes directed toward the cruise industry. Referring to the statement regarding sales taxes, income taxes, and user fees, he said approximately one-third of the local sales tax in Sitka were paid by the cruise ship passengers visiting there.

MR. BLOOD continued, stating that for more than 30 years cruise ships have been carrying passengers from around the world to Alaska. He added that the cruise industry has become a growing part of the Alaskan economy. He focused on the partnerships that the cruise industry has made with both public and private sectors. He noted the Crescent Harbor dock and construction of the downtown public restrooms in Sitka, financially supported by the cruise industry, that are used year-round by the citizens in the community. He added that the cruise lines now pay between \$65 and \$80 per passenger in fees and taxes for state and local governments, port maintenance, emergency services, and infrastructure.

MR. BLOOD disclosed that each year, cruise passengers make over \$12 million in direct purchases from local Sitka businesses, bringing in over \$720,000 in sales taxes paid to the city of Sitka. Mr. Blood also pointed out that the cruise industry contributes over \$100,000 to local Sitka nonprofit organizations. Providing all of this information, Mr. Blood said he wonders what the cruise industry is not paying to Alaska, referring again to the sponsor statement. He opined that this bill is a case where the government is taxing and blaming someone else for its fiscal problems.

Number 0801

MR. BLOOD referred again to the sponsor statement and the passage dealing with [the government's] right to charge industries that reap the benefits of doing business in Alaska. He emphasized the services that the cruise industries provide to the State of Alaska and to the local communities. He questioned what other industries bring people from around the world just to spend money in the state. Mr. Blood stated that the cruise

industry supports [Sitka's] local government, jobs, and local economy. He implied that the cruise industry does more for Sitka than the state does, especially since revenues have been cut.

MR. BLOOD warned that this could be a damaging piece of legislation, citing the North West Cruise Ship Association's survey, and asked if this legislation would do more damage than good. He added that Sitka realizes the potential damage that legislation like HB 207 can bring, and therefore has always opposed a head tax targeted towards the cruise industry. Mr. Blood commented that after [the terrorist attacks of September 11, 2001] Alaska benefited from the cruise lines' moving their ships to safer waters in Alaska, and he feels they could just as easily go back.

MR. BLOOD ended his testimony by bringing up that he feels that HB 207 will allow the State of Alaska to unfairly compete with private industry by providing a \$100 incentive for people to use the Alaska Marine Highway System, since the tax proposed will not apply to vessels operated by the State of Alaska.

Number 0640

REPRESENTATIVE MCGUIRE said she agreed with most of what Mr. Blood said, adding that she thinks that HB 207 would violate the commerce clause if the state exemption were kept in the bill. She expressed that the one comment that she took exception to was Mr. Blood's statement regarding cutting the municipal revenue sharing in Sitka. She pointed out that the state has done a lot with the trooper academy, the schools funded by the government, and other things in Sitka.

MR. BLOOD retracted his comment, referring to the point that Sitka's government is in a financial bind.

Number 0517

CHRIS VON IMHOF, Vice-President and Managing Director, Alyeska Resort, testified, reiterating the previous points that the cruise ship industry creates a major economic benefit for all of Alaska with the investments that the industry makes within the state. He added that he feels the cruise industry contributes the majority of funding for the marketing of Alaska as a destination, as well as contributing to the ATIA. Mr. von Imhof stated that Alyeska Resort receives a large percentage of its business from the cruise industry, and the resort is concerned

with the competitive market. Alyeska Resort has already seen some decrease in numbers of customers, and fears that with increased pricing, the resort will lose more business.

MR. VON IMHOF said that the resort was in opposition to a targeted tax, but would support a property tax, a sales tax, or maybe an income tax. He also suggested that if need be, the government could tap into the permanent fund to pay for essential government services. He used an example of a cruise line avoiding ports in Bermuda, because of the high fees with docking there, as a warning against a targeted tax like the one proposed by HB 207.

Number 0313

ALAN LEMASTER, President, Gakona Junction Village Inc., stated that his business is extremely dependent on the cruise industry for its revenue and voiced his concern that a targeted tax would limit the amount of business in Gakona. Mr. LeMaster cited a falloff in business in the previous years because of the discounted rates offered by the cruise lines, and is wary of more of a falloff because the increase in price from a tax like the one proposed in HB 207 would lower the number of people who take advantage of the add-on services like the one his business provides.

Number 0109

RON PECK, President and Chief Operating Officer, Alaska Travel Industry Association (ATIA), testified against specific and targeted taxes because the ATIA believes they are burdensome to the tourism industry.

TAPE 04-02, SIDE A

Number 0001

MR. PECK confirmed the earlier testimony from the cruise industry that the ATIA receives \$2 million in voluntary contributions from the cruise industry for the ATIA's marketing efforts. Mr. Peck added that the cruise industry spends an additional \$200,000 to \$300,000 on specific programs within the ATIA. He validated that the new television advertisements have no mention of cruises because the ATIA is trying to promote the independent business sector.

Number 0094

CHAIR HEINZE asked for confirmation that the number of tourists attributable to the cruise ships was roughly 800,000 passengers.

MR. PECK answered that 775,000 people took a cruise in Alaska during 2003; that number is up about 36,000 people from the previous year, meaning that the growth was all based in the cruise sector because independent travel was down in 2003.

CHAIR HEINZE inquired as to how much money from the cruise passengers would go back into the general fund.

MR. PECK, citing state reports, said that the contribution is estimated between \$800 and \$1,260 per person. He went on to include the estimated amount of money contributed to municipalities by the cruise industry at \$125 million, based on a study by Eric McDowell in 1996.

CHAIR HEINZE asked Mr. Peck to provide that information to the committee.

MR. PECK agreed.

Number 0306

PATTI MACKEY, Executive Director, Ketchikan Visitors Bureau, speaking against HB 207, shared her concern about the potential impact that this legislation would have on individual communities and their abilities to negotiate with the cruise lines. Ms. Mackey described the mutually beneficial relationship the city of Ketchikan has had with the cruise industry. She stated that because of the city's ability to negotiate with the cruise lines, Ketchikan has constructed two dock extensions as well as obtained funding for improvements to one of the local harbors within the last decade. She also noted that recently, after negotiations with the cruise lines, Ketchikan implemented a passenger service fee that the city just started to collect January 1, 2004.

MS. MACKEY stated that the money collected by this fee will allow the city of Ketchikan to expand and rework existing port facilities, enabling more ships to dock during the time they are in port in Ketchikan. Ms. Mackey added that each community serving and being served by the cruise lines has, up to this point, had the freedom to work with the cruise lines to meet its needs. Ms. Mackey pointed out that, from an economic standpoint, the city of Ketchikan has become more dependent on the cruise industry because it has lost ground in its

traditional fishing and timber industry markets; she said that the cruise industry currently represents the only growth industry in Ketchikan.

Number 0525

BONNIE QUILL, Executive Director, Mat-Su Convention and Visitor's Bureau, testified that she was not opposed to taxing visitors, but she is opposed to targeted taxes applied to visitors, such as statewide bed taxes, rental car taxes, and cruise ship head taxes. She stated, "Our industry has come forward with a plan that includes all sectors of the visitor industry, broad-based plan that represents all visitors who travel to Alaska." She asked the committee to review and support the industry initiative.

MS. QUILL commented on the impact that cruise ship passengers have on the Mat-Su Valley. She described how the money spent by cruise ship passengers affects the economy in the Mat-Su Valley, citing that the money spent by these passengers on services tours trickles down to support a wide range of other businesses such as laundry, accounting, and day care. She added that cruise ship passengers also contribute to local taxes through sales taxes and bed taxes, stating that cruise ship passengers account for between one-third and one-half of the total bed taxes collected in the Matanuska-Susitna Borough.

MS. QUILL explained that most of the funding for the Mat-Su Convention and Visitors Bureau comes from the borough-wide bed tax, which the cruise ship passengers account for nearly half of. She pointed out that the bed tax dollars are used towards marketing all segments of tourism in the Mat-Su Valley, adding that the Mat-Su Valley is a place where tourism is growing and is embraced by its residents. Ms. Quill expressed her concern about the negative effects of HB 207.

Number 0655

MR. DICKINSON clarified some of the questions raised from his earlier testimony by explaining how the fees potentially attributable to cruise industry did not take into account fees that were already in place, since those fees affected the general fund. He summarized that the figures on the table reflected the total cost for the services provided.

Number 0707

REPRESENTATIVE GATTO responded to all the testimony and expressed that he felt beaten up. He acknowledged that the cruise ship industry's purpose was to make money, stating that it was laudable and "when they make money, we all do better." He also pointed out that Mr. Dow had stated that the ships always sail full, and added that the cruise lines are building more ships. He emphasized that because of these reasons, the number of passengers to Alaska will increase, bringing more business to the state wherever the cruise ships stop. He argued the rationale that the cruise lines will stop coming to Alaska if the fees are raised. Representative Gatto cited the North West Cruise Ship Association's survey, stating it was an old survey that was put together by the McDowell group in Washington, D.C., that used vague language; he commented that it was possible to solicit any type of response desired by going to the right company.

REPRESENTATIVE GATTO contradicted the North West Cruise Association's report by citing an unofficial survey that he'd conducted himself, asking passengers off the cruise ships if their plans would have changed if there were an additional \$100 charge to their trip. He stated that out of all the people that he questioned, only one had responded that he or she may reconsider. Representative Gatto stated that [this legislation] will not hurt any local businesses as long as the cruise lines continue to bring in customers, which he believes will continue to happen. He backed that comment up with a statement regarding the amount of money the cruise industry makes off of coming to Alaska, focusing on the shops that the ships have on board the vessels, as well as the businesses that the industry owns and operates within Alaska.

Number 1026

REPRESENTATIVE GATTO continued on to explain his interpretation of the "kickback" that the cruise industry receives from local businesses for them to be on the "approved list." He referred to Juneau airplane operators that he'd interviewed and their comments stating that they barely make a living after paying the pilots, fuel costs, airplane maintenance, insurance, and "kickbacks" that they give to the cruise industry. He reiterated that the cruise lines make so much money that they would never stop coming to Alaska.

REPRESENTATIVE GATTO explained that the only problem with the proposed legislation lies with the legality of it. He said that it is not up to the cruise industry or for [the legislators] to

determine the legality, but for the courts to determine. He referred to the earlier testimony by Ms. Burke by stating that it was not irresponsible for the legislature to adopt this bill because he has researched the legality of the bill and would not waste his time or effort if he felt that this bill was illegal. He cited his data that the cruise industry costs the state \$135 million, and that the state stands to gain from this tax \$70 million, if the fee remains \$100, and pointed out that the cruise industry pays no corporate income tax. He stated that because of the commerce clause and the maritime clauses, the cruise industry feels that it can defeat this proposed tax by referring to legislation that appears to prohibit it. He commented on the cruise industry's stance against this bill and that it is relying on businesses to help support its stance by the businesses' stating that their livelihood depends on the cruise ships. Representative Gatto agreed that the businesses were dependent on the cruise ships, but stated that the customers will not go away. He commented that the combination of separate issues relating to taxes, business losses, and legality is "muddying the water."

Number 1238

REPRESENTATIVE GATTO added that the cruise industry does not pay corporate income taxes, while other competing industries do. He stated that the tax in HB 207 is no more of a focused tax than the ones levied by the state on the oil, timber, fishing, and mining industries. He brought up the issue of a broad-based tax, stating that most constituents do not want that sort of tax imposed. Representative Gatto communicated that Alaska is a resource-based economy, stating that the tourism industry doesn't exactly fit the definition of a resource but that the way the state handles it is similar. Representative Gatto stated that he believes it is only fair for the cruise ship industry to pay the proposed tax, or "user fee" if that is the preferred wording, based on its profit margin and its use of Alaska's resources.

REPRESENTATIVE GATTO closing by commenting that the cruise industry makes a lot of money by being in Alaska, and it is fair for [the state government] to expect reasonable compensation for the cruise lines' access to Alaska. He feels that HB 207 has enormous merit and asked for strong consideration from the committee.

Number 1425

REPRESENTATIVE MCGUIRE addressed the validity of Representative Gatto's statements, saying she believed that he was concerned about the fiscal gap in Alaska and he was trying to create a solution to that problem. She believes that this bill is not an attempt for retribution and that Representative Gatto truly does support the cruise industry. Representative McGuire stated that she had three legal concerns, noting the frustration that can be attributed to legal barriers, starting with the tonnage clause.

Number 1458

REPRESENTATIVE MCGUIRE elaborated on the history of the tonnage clause, stating that the government didn't want to have barriers to the free travel of ships to different ports. She stated that the tonnage clause isn't just an arbitrary thing, but an actual legal thing that has to be dealt with when talking about user fees. She also encouraged Representative Gatto to start using the term "user fees" over "head tax". She pointed out two points for Representative Gatto to think about, referring to the tonnage clause specifically.

REPRESENTATIVE MCGUIRE asked Representative Gatto to show a direct correlation between the fee assessed to the cruise lines or passengers and the costs attributed to medical, fire, and police services necessary to serve the passengers. She continued that creation of facilities and the maintenance of those facilities can be related to the fee. She questioned the fee of \$100 that is included in HB 207, stating that there was nothing in the sponsor's statement or bill packet that shows a direct connection with that amount and the actual costs that are incurred by the ports. She cited the governor's office report where it showed costs of a few dollars per person, stating her opinion that the proposed \$100 fee probably wouldn't survive a legal challenge.

Number 1608

REPRESENTATIVE MCGUIRE inquired about the relationship between the legal interaction of the State of Alaska's constitutional prohibition on dedicated funds and the tonnage clause's requirement that any user fee goes directly toward those services and facilities used by the vessel or passenger. She suggested that the information could probably be prepared by the Legislative Legal and Research Services.

REPRESENTATIVE MCGUIRE presented her third question, which she thought would have to be completely taken out of the bill,

referring to state vessels and state ferries' being exempt from this fee. She cited a Supreme Court test that specifically addresses commerce clause challenges and how a tax can be upheld under the commerce clause. She stated that the fourth part of the Supreme Court test is very specific in reference to not providing a direct commercial advantage to local businesses. Representative McGuire referred to Representative Kott's recent rental car tax, stating that it was undoubtedly a targeted tax. She said that there are two things that make that tax quite different from this one. She elaborated on the lack of a tonnage clause that applies to a rental car, and the fact that the tax applied to every rental car agency, regardless of whether it had local or outside ownership. She related these points to the tax in HB 207, stating that by not taxing state-owned vessels, the bill is creating an unfair business advantage.

Number 1712

REPRESENTATIVE MCGUIRE shared that she has been working with a group in Pacific NorthWest Economic Region (PNWER) that would create a ferry pass that would allow passengers to travel between Washington State, British Columbia, and Alaska ferries to increase foot passengers within the ferry system to generate more money.

Number 1750

REPRESENTATIVE CISSNA expressed that her background was not in the legal services but rather mental health and publications, so she is addressing this issue from that point of view. She commented that based on the cost that was required to make the North West Cruise Association's survey, namely, the quality of the paper and the expense of printing the four-color pamphlet, she is considering the fact that there are legal concerns and that the industry has the potential to tie up this legislation in court for a very long time. Representative Cissna continued that the state has to devise fair ways to address the current fiscal problem, and that the bill would have to clear up its legal issues if it was to be successful.

Number 1849

REPRESENTATIVE GATTO said he knew of the previously mentioned impediments, the tonnage and commerce clauses, as well as the Maritime [Transportation] Security Act of 2002, and would not go forward without being able to address these impediments. He

continued that it isn't good public policy to back off of a bill because the opposition has a lot of money, stating that if that were the case, whom could the state ever take a stand against.

REPRESENTATIVE CISSNA pointed out that she has a letter from Legislative Legal and Research Services stating that there is a potential legal problem with this type of tax.

CHAIR HEINZE cautioned Representative Gatto in his use of the term "kickback."

REPRESENTATIVE GATTO responded that that was the term used by the people who had to pay these fees.

CHAIR HEINZE questioned whether it was people in the tourist industry using that term.

REPRESENTATIVE GATTO expressed that the people he talked to were "hardship cases" and used that term when referring to the cruise industry. He went on to say that those people talked about other issues that he felt would take up too much time at this point. He suggested that if the committee would rather he use the word "commission," he would, but that isn't the term that was used when he was talking with people within the industry.

Number 1960

REPRESENTATIVE KOTT offered that in a separate committee they used the term "return on investment" when dealing with the type of fees that are being referred to as a "kickback." He went on to voice similar concerns that Representative McGuire had, stating that the last thing [the legislature] wants is to end up in court spending money on [the legislature's] behalf, or for the Senate to come back to show a legal document stating that the bill was "on thin ice."

REPRESENTATIVE KOTT presented some numbers relating to a sales tax, speculating on the amount of revenue that would be generated by enacting that type of tax. Representative Kott stated that he thought it was great that Representative Gatto spent the time to conduct his own survey, noting that it showed that it was a genuine issue that Representative Gatto had some serious interest in. However, Representative Kott commented that someone will say one thing to a person's face, but then change that opinion when it comes time to vote.

Number 2042

REPRESENTATIVE KOTT shared that he had requested a copy of the questions used in the North West Cruise Association's poll because he understood that those types of surveys can be skewed by the manner in which the questions are asked.

REPRESENTATIVE KOTT expressed concern about the impact that this tax would have on small businesses within the state, saying he felt there was some genuine concern from those businesses that if this tax was imposed, fewer people would take the add-on excursions, especially in the Interior.

Number 2125

REPRESENTATIVE GATTO pointed out that "Channel 2" did a dockside poll, which he felt better represented the facts.

REPRESENTATIVE KOTT said it was another person-to-person poll, and those sometimes are misleading.

CHAIR HEINZE asked Representative Kott if he'd be willing to chair a subcommittee.

REPRESENTATIVE KOTT said he'd be willing to chair a subcommittee and to work with the sponsor and the industry on the issues to try to resolve some of the legal aspects of the bill. He asked Chair Heinze to assign Representative McGuire to the subcommittee, if she desired, to help with the legal issues. He noted that the bill didn't get a House Judiciary Standing Committee referral.

Number 2174

CHAIR HEINZE asked Representatives Dahlstrom and McGuire to participate.

REPRESENTATIVES DAHLSTROM and MCGUIRE both agreed.

REPRESENTATIVE KOTT asked Chair Heinze to appoint one of the minority Representatives to the committee; he recommended Representative Crawford.

REPRESENTATIVE CRAWFORD agreed.

REPRESENTATIVE DAHLSTROM said she'd be happy to defer to Representative Crawford.

CHAIR HEINZE announced the subcommittee for HB 207:
Representative Kott, chair; Representative Crawford; and
Representative McGuire. [HB 207 was held over.]

ADJOURNMENT

Number 2199

There being no further business before the committee, the House
Special Committee on Economic Development, International Trade
and Tourism meeting was adjourned at 12:29 p.m.