

HOUSE CS FOR CS FOR SENATE BILL NO. 312(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/17/10

Referred: Today's Calendar

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the deposit of the proceeds of the tax on gambling operations aboard**
2 **certain commercial passenger vessels into the large passenger gaming and gambling tax**
3 **account that is established as a subaccount within the commercial vessel passenger tax**
4 **account in the general fund; providing for a reduction in the excise tax to \$34.50 for a**
5 **passenger for each voyage on a commercial passenger vessel; describing the passengers**
6 **that are subject to the excise tax and liable for the payment of the tax; providing for a**
7 **reduction in the state excise tax imposed on a passenger traveling on a commercial**
8 **passenger vessel by the amount of tax on a passenger traveling on a commercial**
9 **passenger vessel imposed by certain municipalities under laws enacted before**
10 **December 17, 2007; authorizing appropriations from the commercial vessel passenger**
11 **tax account to the first seven ports of call in the state to certain other municipalities and**
12 **for costs associated with commercial passenger vessels and the passengers on board;**

1 **limiting the use of funds appropriated from the commercial passenger vessel tax account**
 2 **to expenditures related to port facilities, harbor infrastructure, other services provided**
 3 **to the commercial passenger vessels and the passengers on board those vessels and**
 4 **certain other purposes; repealing the regional cruise ship impact fund; relating to the**
 5 **administration of the excise tax by the Department of Revenue and regulations required**
 6 **to be adopted; requiring a report from the Department of Commerce, Community, and**
 7 **Economic Development relating to safely and efficiently hosting passengers; defining**
 8 **'voyage' for purposes of the excise tax; relating to municipal levies on a passenger on a**
 9 **commercial passenger vessel; and providing for an effective date."**

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

11 * **Section 1.** AS 43.35.220 is amended to read:

12 **Sec. 43.35.220. Disposition of receipts.** The proceeds from the tax on
 13 gambling operations aboard commercial passenger vessels in the state's marine water
 14 shall be deposited in **the large passenger vessel gaming and gambling tax account**
 15 **that is established as a subaccount within the commercial vessel passenger tax**
 16 **account (AS 43.52.230(a))** [A SPECIAL "COMMERCIAL VESSEL PASSENGER
 17 TAX ACCOUNT" IN THE GENERAL FUND].

18 * **Sec. 2.** AS 43.52.200 is amended to read:

19 **Sec. 43.52.200. Levy of excise tax on overnight accommodations on**
 20 **commercial passenger vessels.** There is imposed an excise tax on **passengers**
 21 **traveling** [TRAVEL] on commercial passenger vessels providing overnight
 22 accommodations **that anchor or moor on** [IN] the state's marine water **with the**
 23 **intent to allow passengers to embark or disembark.**

24 * **Sec. 3.** AS 43.52.210 is amended to read:

25 **Sec. 43.52.210. Rate of tax.** The tax imposed by AS 43.52.200 - 43.52.295 is
 26 levied at a rate of **\$34.50 for** [\$46] a passenger **for each** [PER] voyage.

27 * **Sec. 4.** AS 43.52.220 is amended to read:

28 **Sec. 43.52.220. Liability for payment of tax.** A passenger **subject to**

1 [TRAVELING ON A COMMERCIAL PASSENGER VESSEL PROVIDING
 2 OVERNIGHT ACCOMMODATIONS IN STATE MARINE WATER IS LIABLE
 3 FOR] the excise tax imposed by AS 43.52.200 - 43.52.295 **is liable for the payment**
 4 **of the tax.** The tax shall be collected **from the passenger** [AND IS DUE AND
 5 PAYABLE TO THE DEPARTMENT

6 (1) by the person who provides travel aboard a commercial vessel **and**
 7 **shall be paid to the department** [FOR WHICH THE TAX IS PAYABLE; AND

8 (2) in the manner and at the times required by the department by
 9 regulation.

10 * **Sec. 5.** AS 43.52.230(a) is amended to read:

11 (a) The proceeds from the tax **imposed under AS 43.52.200 - 43.52.295** [ON
 12 TRAVEL ON COMMERCIAL PASSENGER VESSELS PROVIDING
 13 OVERNIGHT ACCOMMODATIONS IN THE STATE'S MARINE WATER] shall
 14 be deposited in a special "commercial vessel passenger tax account" in the general
 15 fund. The legislature may appropriate money from this account for the purposes
 16 described in (b) and **(d)** [(c)] of this section **and in AS 43.52.250** [, FOR STATE-
 17 OWNED PORT AND HARBOR FACILITIES, OTHER SERVICES TO PROPERLY
 18 PROVIDE FOR VESSEL OR WATERCRAFT VISITS, TO ENHANCE THE
 19 SAFETY AND EFFICIENCY OF INTERSTATE AND FOREIGN COMMERCE,
 20 AND SUCH OTHER LAWFUL PURPOSES AS DETERMINED BY THE
 21 LEGISLATURE].

22 * **Sec. 6.** AS 43.52.230(b) is amended to read:

23 (b) For each voyage of a commercial passenger vessel [PROVIDING
 24 OVERNIGHT ACCOMMODATIONS], the commissioner shall identify the first
 25 **seven** [FIVE] ports of call in the state and the number of passengers **subject to the tax**
 26 **imposed under AS 43.52.200 - 43.52.295** on board [THE VESSEL] at each port of
 27 call. Subject to **annual** appropriation by the legislature **and except as provided in**
 28 **AS 43.52.250**, the commissioner shall distribute to each port of call **\$8 for each** [\$5
 29 PER] passenger **subject to the tax imposed** [OF THE TAX REVENUE
 30 COLLECTED FROM THE TAX LEVIED] under AS 43.52.200 - 43.52.295. If the
 31 port of call is a city located within a borough [NOT OTHERWISE UNIFIED WITH

1 THE BOROUGH], the commissioner shall [, SUBJECT TO APPROPRIATION BY
 2 THE LEGISLATURE,] distribute \$4 for each [\$2.50 PER] passenger to the city and
 3 \$4 [\$2.50] to the borough. A city or borough that receives a payment [EACH PORT
 4 OF CALL RECEIVING FUNDS] under this subsection [SECTION] shall use the
 5 funds for [IN A MANNER CALCULATED TO IMPROVE] port [AND HARBOR]
 6 facilities, harbor infrastructure, and other services provided to the commercial
 7 passenger vessels and the passengers on board those vessels [TO PROPERLY
 8 PROVIDE FOR VESSEL OR WATERCRAFT VISITS AND TO ENHANCE THE
 9 SAFETY AND EFFICIENCY OF INTERSTATE AND FOREIGN COMMERCE].

10 * **Sec. 7.** AS 43.52.230 is amended by adding a new subsection to read:

11 (d) In addition to making an appropriation for the payments described in (b) of
 12 this section, the legislature may appropriate money from the commercial vessel
 13 passenger tax account to projects that (1) improve port and harbor infrastructure, (2)
 14 provide services to commercial passenger vessels and the passengers onboard those
 15 vessels, (3) improve the safety and efficiency of the interstate and foreign commerce
 16 activities in which the vessels and the passengers onboard those vessels are engaged,
 17 or (4) other lawful purposes.

18 * **Sec. 8.** AS 43.52.240 is amended to read:

19 **Sec. 43.52.240. Administration.** [(a)] The department shall

20 (1) [ADMINISTER AS 43.52.200 - 43.52.295; AND

21 (2)] collect [, SUPERVISE,] and enforce the collection of taxes due
 22 under AS 43.52.200 - 43.52.295 and penalties as provided in AS 43.05;

23 (2) [.

24 (b) THE DEPARTMENT MAY] adopt regulations necessary for the
 25 administration of AS 43.52.200 - 43.52.295; and

26 (3) subject to annual appropriation, distribute the payments
 27 described in AS 43.52.230(b) and in 43.52.250.

28 * **Sec. 9.** AS 43.52.250 is repealed and reenacted to read:

29 **Sec. 43.52.250. Local levies.** (a) A municipality that imposes and collects a
 30 tax, in any form, on a passenger traveling on a commercial passenger vessel under an
 31 ordinance enacted by the municipality before December 17, 2007, may not receive a

1 distribution under AS 43.52.230(b).

2 (b) Subject to appropriation and to (c) of this section, a municipality that
 3 imposes and collects a tax of less than \$8 on a passenger traveling on a commercial
 4 passenger vessel under an ordinance enacted before December 17, 2007, may receive
 5 a distribution from the commissioner equal to the difference between \$8 for each
 6 passenger and the amount of the municipal tax imposed and collected for each
 7 passenger. If the municipal tax is reduced, the distribution from the commissioner
 8 increases accordingly, so that the combination of the state distribution and the
 9 municipal tax equals \$8 for each passenger. If the municipal tax is increased to \$8 for
 10 each passenger or more, the municipality may not receive a distribution under this
 11 subsection.

12 (c) If the municipality that imposes and collects the tax of less than \$8 on a
 13 passenger traveling on a commercial passenger vessel under an ordinance enacted
 14 before December 17, 2007, is a city within a borough, the commissioner shall
 15 distribute to the borough in which the city is located \$1 and distribute the balance of
 16 the amount calculated under (b) of this section to the city.

17 (d) The state tax imposed on a passenger by AS 43.52.220 - 43.52.295 shall be
 18 reduced by the total amount of each tax on the passenger that was imposed and
 19 collected by a municipality under an ordinance adopted before December 17, 2007.
 20 The amount of the reduction shall be based on the tax rate levied under each ordinance
 21 when it was first adopted, except that, if a municipality subsequently decreases its tax
 22 rate, the amount of the reduction shall be based on the decreased tax rate.

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

24 **Sec. 43.52.260. Periodic report.** The Department of Commerce, Community,
 25 and Economic Development shall, every three years, prepare and submit to the
 26 governor, the legislature, and the public a report that addresses the projected needs of
 27 communities to safely and efficiently host passengers that pay taxes under
 28 AS 43.52.200 - 43.52.295.

29 * **Sec. 11.** AS 43.52.295(4) is amended to read:

30 (4) "voyage" means any trip or itinerary lasting more than 72 hours in
 31 the state.

1 * **Sec. 12.** AS 43.52.230(c) is repealed.

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

4 CONTINGENT EFFECT OF SECS. 1 - 12 OF THIS ACT. (a) Sections 1 - 12 of this
5 Act take effect only if the state and the Alaska Cruise Association reach a settlement in
6 Alaska Cruise Association v. Galvin, Case Number 3:09-cv-00195-RRB (D. Alaska) before
7 October 31, 2010, that disposes of the case with prejudice.

8 (b) The attorney general shall notify the revisor of statutes if a settlement is reached
9 as described in (a) of this section.

10 * **Sec. 14.** If, under sec. 13 of this Act, secs. 1 - 12 of this Act take effect, they take effect
11 October 31, 2010.

12 * **Sec. 15.** Section 13 of this Act takes effect immediately under AS 01.10.070(c).