

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 12, 2016

3:26 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Shelley Hughes, Vice Chair
Representative Cathy Tilton
Representative Andy Josephson
Representative Sam Kito

MEMBERS ABSENT

Representative Jim Colver
Representative Gabrielle LeDoux
Representative Mike Chenault (alternate)

OTHER LEGISLATORS PRESENT

Representative Dan Ortiz

COMMITTEE CALENDAR

HOUSE BILL NO. 248

"An Act requiring the electronic submission of a tax return or report with the Department of Revenue; relating to the excise tax on alcoholic beverages; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 252

"An Act requiring electronic submission of a tax return or report with the Department of Revenue; repealing the tax reduction for local levies for the commercial vessel passenger excise tax; amending the definition of 'voyage'; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 194

"An Act repealing and reenacting the Alaska Securities Act, including provisions relating to exempt securities and transactions; relating to registration of securities, firms, and agents that offer or sell securities and investment advice;

relating to administrative, civil, and criminal enforcement provisions, including restitution and civil penalties for violations; allowing certain civil penalties to be used for an investor training fund; establishing increased civil penalties for harming older Alaskans; retaining provisions concerning corporations organized under the Alaska Native Claims Settlement Act; amending Rules 4, 5, 54, 65, and 90, Alaska Rules of Civil Procedure; and providing for an effective date."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: HB 248

SHORT TITLE: ELECTRONIC TAX RETURNS & ALCOHOL TAX

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/19/16	(H)	READ THE FIRST TIME - REFERRALS
01/19/16	(H)	L&C, FIN
02/10/16	(H)	L&C AT 3:15 PM BARNES 124
02/10/16	(H)	Heard & Held
02/10/16	(H)	MINUTE(L&C)
02/12/16	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 252

SHORT TITLE: ELCTRNC TAX RETURNS; VESSEL PASSENGER TAX

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/19/16	(H)	READ THE FIRST TIME - REFERRALS
01/19/16	(H)	L&C, FIN
02/10/16	(H)	L&C AT 3:15 PM BARNES 124
02/10/16	(H)	Heard & Held
02/10/16	(H)	MINUTE(L&C)
02/12/16	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

DALE FOX, President/CEO

Alaska Cabaret, Hotel, Restaurant and Retailers Association
(CHARR)

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 248.

DIANE THOMPSON, President

Alaska Hospitality Retailers

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 248.

RYAN MAKINSTER, Executive Director
Brewers Guild of Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 248.

JOHN BINKLEY, President
Alaska Cruise Association
Anchorage, Alaska

POSITION STATEMENT: Provided a PowerPoint presentation entitled, "Alaska Cruise Association/CLIA Alaska," and testified in opposition to HB 252.

FRED REEDER
Sitka, Alaska

POSITION STATEMENT: Provided a PowerPoint presentation entitled, "ALASKA ACT Alaska Alliance for Cruise Travel," dated 2/12/16, and testified in opposition to HB 252.

ACTION NARRATIVE

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CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:26 p.m. Representatives Olson, Kito, Josephson, Hughes, and Tilton were present at the call to order. Representative Ortiz also was present.

HB 248-ELECTRONIC TAX RETURNS & ALCOHOL TAX

[3:26:39 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 248, "An Act requiring the electronic submission of a tax return or report with the Department of Revenue; relating to the excise tax on alcoholic beverages; and providing for an effective date."

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DALE FOX, President/CEO, Alaska Cabaret, Hotel, Restaurant and Retailers Association (CHARR), informed the committee Alaska has the highest alcohol taxes in the nation; in fact, Alaskans pay the highest taxes on wine and the second highest on beer and spirits. Currently, the excise tax on spirits is \$12.80 and the proposal to double that will put the tax at \$25.60, however, the national average \$4.45, and \$25.60 is five point seven times the

national average. The excise tax on wine is currently \$2.50, doubling that will put the tax at \$5.00; the national average is \$0.83, and \$5 is six times the national average. The excise tax on beer is \$1.07, doubling that will put the tax at \$2.14; the national average is \$0.28, and \$2.14 is seven point six times the national average. Mr. Fox said the issues related to HB 248 are equity and unintended consequences. One example of an unintended consequence is that the discrepancy in price between the cost of alcohol in Alaska and Outside makes it possible to skip the \$5 per gallon tax on wine in Alaska, and ship wine from California where the tax is \$0.20 per gallon, saving enough money to pay shipping costs. The same is true with spirits, where the tax in Kentucky is \$1.92. Mr. Fox said high taxes in Alaska will make residents buy off the Internet, as they do with so many other products. Although beer is heavy, with Oregon taxes at \$0.08 per gallon, the same thing can happen with beer. He suggested that residents could buy beer in Oregon, whiskey in Kentucky and wine in California, skipping the Alaska taxes, and local distributors and retailers. Mr. Fox stressed that Alaskans should not pay seven times the national average, and urged legislators to defeat the bill.

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DIANE THOMPSON, President, Alaska Hospitality Retailers, said her association is a coalition of restaurants, hotels, retailers, and coffee shops and is not a liquor lobby, although many of its venues sell liquor as part of their services to their customers. She is a co-owner of Fire Tap in Anchorage and is opposed to the proposed increase in liquor taxes. Ms. Thompson agreed that the government needs more money and suggested implementation of a general sales tax, thus liquor taxes would "pay their part, but would not be singled out." She referred to materials provided in the committee packet that show liquor taxes in Alaska to be higher than those in the rest of the nation. An article provided from the [Anchorage Daily News, dated 9/15/13] shows that liquor sales did not decline because of increased taxation. She said there is testimony that increased liquor taxes are needed to provide treatment for alcohol abuse, and this concept is not a problem for the industry; however, currently, taxes are not being used to do so. Ms. Thompson recalled that a \$4 million appropriation to deal with chronic inebriates in Anchorage was changed by the Department of Health and Social Services "into a homeless program, and now a year-and-a-half, two years later, not a dollar ... of it has been spent on alcohol treatment" She concluded that her association believes there should be a focus

on general tax measures, such as a sales tax that could provide more revenue, and that the industry supports the work of the legislature to balance Alaska's budget and prevent another recession.

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RYAN MAKINSTER, Executive Director, Brewers Guild of Alaska, said he agreed with the two previous speakers and added that last year the craft beer industry in Alaska provided approximately 965 direct jobs, with a full-time equivalent job impact of approximately 1,700 positions. The craft brew industry in Alaska is responsible for a total economic impact of \$454 million, and currently pays almost \$30 million in state and local taxes and fees, including multiple licensing and distilling fees. Total instate expenditures that his members pay to other Alaska businesses is approximately \$150 million. Mr. Makinster clarified that his member breweries fall under the exemption in HB 248 and in previous related legislation, and thus currently pay \$0.35 per gallon, and the increase in HB 248 would mean the breweries will pay over twice the national average. He further explained that the exemption applies to all craft breweries producing under a certain amount and all of the guild members fall under that limit. The growing craft brewery industry is important to the state and local communities; in fact, in other states the industry has attracted new residents of the younger generation. Although craft breweries inside and outside the state would be affected by the tax increase, local breweries must pay to ship in their supplies such as glass, cans, and hops - which are not available locally - in addition to the higher tax. Because of this, the higher tax is a bigger issue for guild members. Craft breweries' products are priced higher than others and the experience in other states is that reaching a certain price level "prices" people out of the local market. Finally, Mr. Makinster noted that the state has worked to promote his industry because it is an economic driver and an expanding manufacturing industry, thus it is counterproductive to double taxes on an industry that the state seeks to promote.

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CHAIR OLSON announced that public testimony would remain open.

[HB 248 was held over.]

HB 252-ELCTRNC TAX RETURNS; VESSEL PASSENGER TAX

3:39:59 PM

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 252, "An Act requiring electronic submission of a tax return or report with the Department of Revenue; repealing the tax reduction for local levies for the commercial vessel passenger excise tax; amending the definition of 'voyage'; and providing for an effective date."

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The committee took an at ease from 3:40 p.m. to 3:41 p.m.

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JOHN BINKLEY, President, Alaska Cruise Association/CLIA Alaska (ACA/CLIA), disclosed a conflict of interest with the legislation as he serves as the chairman of a family tour business in Fairbanks, which is managed by his adult children. Mr. Binkley provided a PowerPoint presentation entitled, "Alaska Cruise Association/CLIA Alaska." He informed the committee that ACA/CLIA represents twelve member lines, who bring almost one million passengers to Alaska each year [slide 2]. In 2015, 31 ships made 487 voyages, and of those passengers, about two-thirds are round trip visitors through Southeast Alaska, and one-third either come up through Southeast, travel across the Gulf of Alaska to various ports in Southcentral, and then travel by land tours throughout Southcentral and Interior Alaska, or do the reverse [slide 3]. Mr. Binkley said he would discuss three subjects related to HB 252: the history of entry fee taxes; legal issues related to entry taxes; and relevant public policy. Cruise passengers are roughly one-half of the volume of visitors to Alaska: 967,500 travel by cruise ship; 898,500 travel by air; and 80,400 travel on the Alaska Marine Highway System (AMHS) and/or on the Alaska Highway [slide 4].

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CHAIR OLSON asked for the breakdown of the percentage between travelers by road or AMHS.

MR. BINKLEY did not have that information. He continued to explain that the tourism industry spends \$1.8 million in Southcentral, \$519 million in the Interior, \$1,004 million in Southeast, \$115 million in Southwest, and \$25 million in the Far North, for a total of \$3.4 billion of economic impact to Alaska [slide 5]. Historically, the cruise industry grew steadily from

1995 to 2007 [slide 6]. However, beginning in 2007, there were economic changes in the U.S., and in 2008 and 2009, there were dramatic tax policy changes in Alaska specific to the cruise industry, as embodied in [the Alaska Cruise Ship Tax Initiative, Measure 2, approved 8/22/06 (cruise ship initiative)], which implemented five new taxes in 2007. The new taxes affected large cruise ship visitors and generated \$68 million, not including \$15 million in local entry fee taxes. In addition, there were new regulatory requirements and a requirement for full-time state contractors onboard ships, referred to as Ocean Rangers [slide 7]. In response to the new taxes and requirements, the cruise line companies reviewed the return on investment for their assets, seeking to be responsible to their shareholders. One benefit of the cruise industry is that its assets are mobile, and companies can move assets from one destination to another for the highest rate of return, so companies redeployed ships to other destinations in order to gain a better rate of return on their investment. As a result of the redeployment of ships, Alaska lost about 142,000 cruise visitors, an estimated \$150 million in less spending, and over 5,000 jobs [slide 8]. Proportionally, the losses were higher in Southcentral because more voyages across the Gulf of Alaska were lost. Mr. Binkley spoke of his personal experience of downsizing his business.

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CHAIR OLSON asked about the impact to Fairbanks.

MR. BINKLEY said his family business downsized from 210 employees to 140 employees.

REPRESENTATIVE KITO asked for figures on the 2008 [stock] market crash and collapse of the economy in the U.S., and opined that both would have had measurable impact on the cruise industry.

MR. BINKLEY agreed. The economic downturn in 2008 and 2009 affected all travel to Alaska; the assets were moved from Alaska to a different destination in order to get a better return on those assets, and there was a combination of causes involved. Returning to the presentation, he said that subsequently the administration and legislature sought to return the lost jobs to Alaska, and the industry filed litigation in federal court to determine how the entry fee tax revenue could be spent. Subsequently, there was a settlement agreement between the state and the industry and new legislation was enacted which reduced the entry fee tax from \$46 to \$34.50, directed that all cruise

ship visitors pay the same amount, and changed state law to parallel federal law and clarified how the funds could be spent. For example, a key provision ensured that the funds were used for the passengers and the ships. Therefore, any entry fee taxes collected must be expended in a service to a ship and a passenger. In addition, the original cruise ship initiative provided that any port with an existing head tax, such as Juneau and Ketchikan, was not eligible to receive the \$5 head tax; in the new legislation, this provision was changed and thus reduced the amount the state retains from the entry fee taxes to about \$2 million per year [slide 9].

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MR. BINKLEY expressed ACA/CLIA's belief that HB 252 raises the following legal issues: could jeopardize the 2010 settlement agreement and existing taxes; could raise constitutional issues asserted under the 2009 litigation [slide 10]. The aforementioned legal issues are based on the following [slide 11]:

- Tonnage Clause of the U.S. Constitution, which addresses the "laying on of any duty of tonnage," possibly pertaining not only to the displacement of the vessel but to its passengers as well
- Commerce Clause of the U. S. Constitution
- 33 U.S.C. Section 5 and Supremacy Clause, which is not an issue because state law now parallels federal law

MR. BINKLEY returned attention to slides 4 and 12, entitled "Visitor Volume," which illustrated that nearly one million cruise passengers were charged an entry fee of \$34.50 by the state. He reminded the committee that HB 252 raises the fee on cruise ship passengers by \$15, and suggested an alternative source of revenue could be raised by charging an entry fee of \$34.50 to visitors who arrive by air, AHMS, or highway. He acknowledged that his suggestion is "a bit absurd," because the Commerce Clause directs that there is free travel and commerce between the states. Mr. Binkley opined the Commerce Clause is one of the "problems" when the state decides to charge a toll to cruise ship passengers for coming into Alaska, although the state can charge a fee as long as a service is provided to the passenger and the ship, in the same manner as motor fuel fees, licenses, and taxes which are charged for highway use.

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REPRESENTATIVE KITO inquired as to the average fare paid by a cruise ship passenger.

MR. BINKLEY said he did not know what an average fare would be, but current fares are available on the Internet. He added that fares to Alaska can be as low as \$399 per person, and some luxury lines charge up to \$17,000. He pointed out that for some passengers \$34.50 per person is meaningless, and for those seeking the lower-priced cruises, the entry fee can make a difference in their travel destination decision.

REPRESENTATIVE KITO surmised that during settlement negotiations the state [agreed to] modify a statute so that entry tax revenue could only be used for certain purposes that benefit the passenger and the vessel.

MR. BINKLEY said correct.

REPRESENTATIVE KITO questioned whether the aforementioned change is being repealed by HB 252.

MR. BINKLEY recalled that previous testimony before the committee on 2/10/16 suggested "maybe we're better to leave well enough alone," and there could be a legal challenge to the tax. He restated that the state and the cruise lines entered into a settlement agreement to which the cruise lines adhered by bringing ships and passengers back. Mr. Binkley opined HB 252 could be seen as "going back" on that agreement.

REPRESENTATIVE KITO pointed out that discussion during the hearing has been related to the use of the revenue and not to the level of the tax. He questioned whether the Tonnage Clause, the Commerce Clause, or the Supremacy Clause identify a reasonable amount the state can charge for the tax.

MR. BINKLEY said an amount was not specified; however, every jurisdiction may be different. He said compliance requires that there is a service to the passenger and the vessel, but a service may cost \$34.50 or may cost much less, such as fees for a private dock that are paid by the cruise lines. He said, "People get confused about this and think that ... wherever the passenger is utilizing a service, that you can take that tax and follow it to that service" Towns in Southeast have found that the way to capture the economic activity of the cruise industry is by levying a local sales taxes.

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REPRESENTATIVE KITO expressed his understanding that the state tax is \$34.50 and will remain so, but the change brought by HB 252 is that the local tax assessed by municipalities would be added on top, thus the local municipalities would choose whether to implement said tax. The state would not be adding a tax, but is removing an exemption for local taxes.

MR. BINKLEY said from the perspective of the visitor, there is an additional tax of \$15 if there are stops in Ketchikan and Juneau.

REPRESENTATIVE KITO restated that in statute, the tax will remain \$34.50.

MR. BINKLEY restated that the fares are increased by \$15 each.

REPRESENTATIVE HUGHES asked whether it is more common now for families and groups to visit Alaska on a cruise, which multiplies the effect of the tax.

MR. BINKLEY said that is true. Generally, all visitors to Alaska are getting younger, and more family oriented, and grandparents are taking grandchildren on cruises.

REPRESENTATIVE HUGHES directed attention to [slide 5 of the PowerPoint presentation entitled, "Commercial Passenger Vessel Tax HB252," provided to the committee at the hearing on 2/10/16] which indicated that additional revenues would be \$14.8 million to the state and \$1.8 million to municipalities. She asked for Mr. Binkley's opinion as to how the additional revenue would be used - subject to federal directives - and whether said revenue would help close the fiscal gap, as purported by the governor.

MR. BINKLEY turned attention to slide 13, which contained excerpts out of a letter to the legislature from Legislative Legal Services, Legislative Affairs Agency, dated 9/4/09, which he characterized as a cautionary note that the funds are not general funds (GF), but are restricted funds under federal law. The legislature was advised to be cautious because 33 U.S.C. 5(b)(2), and the case law, require a service to the vessel, in addition to the passengers. He further explained that as part of the settlement agreement, AS 43.52.230 was amended to parallel federal law [slide 14]. He remarked:

There has to be, for the expenditure of these funds, a nexus to the ship, so you can't just follow the

passenger, it has to benefit the ship as well. So it becomes problematic, the farther you go away from the dock, the service that the ship requires ... then you start to run afoul of U.S. Constitution and federal law, and now state law, that says the same thing.

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MR. BINKLEY informed the committee that the City and Borough of Juneau receives approximately \$13 million per year in local and state entry fee taxes. Proposed for the city is a bronze whale monument and reflecting pool [slide 15]. Although private funds will pay for the bronze whale, entry fee taxes paid by cruise ship passengers are going to fund the foundation, water-works, and transportation to the area. He said, "This is an example of what we think has gone wrong with this and why it's apparent to us that too many entry fee dollars and taxes are being collected by the visitors, because this is where those monies are now going." Although a phenomenal project for Juneau and Alaska, he said it should not be paid for by visitor entry fees and taxes. He further described the project in detail, noting the bill for the entire structure is \$13 million [slide 16]. He concluded that this is an example of projects that concern the industry, as there is no real benefit to the ship and very little benefit to the passengers; in fact, he questioned whether the city should "try and lure them away from the business district down to view this whale sculpture when they could be spending money in Juneau and paying sales taxes to the local community." In austere times, a manmade island, elevated causeway, and a whale sculpture are an egregious example of the use of tax dollars.

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MR. BINKLEY restated his opposition to HB 252: potential legal problems; a settlement agreement is in place; potential jeopardy to existing state and local taxes; restricted use of funds. Although the governor is to be applauded for trying to fix the fiscal problem, these are not GF, they are restricted funds that cannot be used to close the budget gap; HB 252 is not a legitimate method of generating revenue. Furthermore, there is no good analysis on how the existing funds are being expended, no indication within HB 252 on how the additional funds will be used, and no economic analysis on the impact of the bill on private sector jobs [slide 17].

[4:20:28 PM](#)

REPRESENTATIVE HUGHES asked for confirmation that HB 252 would direct \$2 million to close the fiscal gap.

MR. BINKLEY said that's correct. He said his understanding is about \$2 million would be retained by the state and the remainder goes to communities. He recalled previous testimony that the fund was overspent last year.

CHAIR OLSON asked for two other examples of how entry fees are spent by port communities.

MR. BINKLEY said some ports have collected an "accumulated pool of money, looking for projects." He acknowledged that some expenditures are legitimate and used in GF for general government expenses, and it is believed [by certain port communities] that it is legitimate to utilize these taxes for general government use.

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REPRESENTATIVE KITO stated that the money in the [Commercial Passenger Vessel Excise Tax, Tax Division, Department of Revenue] is designated toward activities specifically related to cruise ships such as crossing guards, additional ambulance response, and other direct support services. The projects are vetted and analyzed for compliance with the statute which requires that projects are affiliated with a cruise ship and passengers, and enhance their experiences. He pointed out that the aforementioned future park in Juneau is already on a route accessed by cruise ship passengers, and is a legitimate expense. Further, the money received by Juneau is not state money, but cruise ship tax assessed by Juneau for Juneau, thus any increase is not going to a specific community, but is designated to be used in the area or region, and for the benefit of any of the first seven ports that can support cruise ships and cruise ship passengers.

REPRESENTATIVE HUGHES directed attention to slide 13, and remarked:

It's saying that according to the federal limitations and case law it actually has to go to a specific vessel, that's collecting, it should be supporting that specific, not even just generally, vessels. ... It almost sounds like we're, we're running adrift of that. Would you agree?

MR. BINKLEY said our interpretation is that it has to follow the specific vessel. Thus, if taxes are collected from passengers departing a vessel, the funds cannot be used in another port. He said, "You can't, for example, collect the tax off a vessel that calls in Juneau, and then use that to, for a service to a vessel that calls in Ketchikan."

REPRESENTATIVE HUGHES questioned whether ports that have a pool of money - and have legitimate services to provide - need additional money at this time.

REPRESENTATIVE KITO suggested that the Department of Law is better equipped to address issues of a legal nature.

MR. BINKLEY disclosed that he is not a lawyer.

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REPRESENTATIVE ORTIZ recalled that an independent audit related to the legitimate use of the cruise ship tax funds was completed recently.

MR. BINKLEY has heard there was an audit requested by the Legislative Budget and Audit Committee, Alaska State Legislature, over how the funds were expended. There was a proposal to the Senate Finance Committee, Alaska State Legislature, for the state to hold the funds back from local communities, and he said the opinion in the Senate Finance Committee was that the funds were overspent, however, ultimately the funds were appropriated to communities.

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CHAIR OLSON said the audit was requested and should be received in March or April, [2016].

REPRESENTATIVE KITO expressed his understanding that the audit would be available in March [2016].

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FRED REEDER provided a PowerPoint presentation entitled, "ALASKA ACT Alaska Alliance for Cruise Travel," dated 2/12/16. Mr. Reeder informed the committee he is a member of Alaska Act, a lifelong resident of Sitka, and has five family members working in the visitor industry. He provided a brief history of Alaska

Act, noting that at the time of the 2006 cruise ship initiative, Alaska businesses unsuccessfully relied on the cruise lines to fight the initiative. Because cruise lines establish their schedules two years in advance, the effect of the tax was not felt until 2009, when itineraries were changed. After the effects of the decrease in passengers were felt, Alaska Act was formed by Alaskans to get the passengers back [slide 2]. Mr. Reeder related hardships faced by his business. The purpose of Alaska Act was to find a way to modify the legislation, which Alaska Act members believed to be illegal in the manner in which the legislation was written, and in how the funds were been expended. He said the over 900 members of Alaska Act - who are Alaskans, business owners, and workers - generated substantial newspaper articles on its goals and plans of action [slide 3]. The organization made thousands of contacts with legislators, and mobilized resources, because the cruise ship initiative had severely impacted its members and local communities.

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MR. REEDER stated that after years of significant growth, the cruise ship passengers left, and Alaska Act saw a direct connection between the regulatory aspects of the state, and the impact said aspects had on local businesses. Mr. Reeder cautioned that before taxes are implemented, it should be determined what the impacts of the taxes will be. He acknowledged that Alaskans need to work to restore revenues; however, legislators are expected to look ahead at potential impacts. In fact, it is known that if the cruise ship tax is raised Juneau will probably lose 156,000 passengers. Mr. Reeder said he has been working for his company since 1996 and he tracks all of the passenger numbers. In 2008, Juneau had 1,032,000 passengers, and in 2011, there were 875,000 passengers, which was a loss of 156,000 passengers. He estimated that each cruise ship passenger spends \$188 in Juneau, which would be \$29 million in lost revenue. The loss in general sales tax averages about \$2 million [slide 4]. Mr. Reeder, speaking from his experience as a former mayor of Sitka, said he would rather have sales tax revenue than other types of revenue because it can be used without restriction.

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REPRESENTATIVE JOSEPHSON has heard that Southeast Alaskans are worried about the impact of a second sales tax, because so many communities already have them.

MR. REEDER observed that he is familiar with local and state taxes in other states, and that like he, most people are used to paying sales taxes.

REPRESENTATIVE JOSEPHSON observed that sales taxes may impact passengers even more than a \$15 fee.

MR. REEDER asked whether Representative Josephson noticed sales taxes prior to traveling.

REPRESENTATIVE JOSEPHSON said no.

MR. REEDER advised that most tourist destinations recoup the cost of visitors through a sales tax.

REPRESENTATIVE JOSEPHSON pointed out that the state needs revenue because a \$1.8 billion budget "would absolutely devastate the economy." He questioned whether the impact of operating budget cuts should also be part of the economic analysis.

MR. REEDER said, "I think it has to be."

REPRESENTATIVE JOSEPHSON recalled that the impact of the recession was so profound that it had to be a major factor in the downturn.

MR. REEDER stated that the ships were redeployed after the tax, but before the recession. In fact, the ships are always filled 1 percent to 3 percent higher than what is originally forecast.

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REPRESENTATIVE KITO observed that sales taxes may not be a concern for those making a certain level of income; however, a single parent with two kids living on a fixed income may have significant problems because he/she would be paying a higher percentage of his/her income, and in Juneau there is no sales tax exemption for food. A community sales tax may not have a dramatic impact on a tourist, but would have a dramatic impact on residents in the community who are struggling to survive. He opined that a \$15 per head tax on a \$300 cruise is like a 5 percent sales tax; if a tourist spends \$300 on purchases, they have paid 5 percent in sales tax. Representative Kito pointed out that statutes are in place to address the issue of where the

money can be spent, which was the point of the lawsuit. He remarked:

So, it seems like we're just talking about a value and then, our job as the state, is to make sure that that money is spent appropriately. ... I'm just concerned about a sales tax and that impact of that sales tax on lower-income individuals in our community.

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MR. REEDER said he can appreciate that a state sales tax can be a hardship. Many localities don't assess sales taxes on food or housing, but on luxury items, and sales taxes could "target those items that [visitors] may be involved with, hotels" Mr. Reeder returned to the history of the cruise ship initiative and noted that the tax was reduced from \$46 to \$34.50, providing for an additional offset for head taxes that communities already charged, and that the funds are to be used for facilities and services for passengers and ships. He further explained that is why an increase in the tax does not help the state's fiscal problem, and the fund must be reviewed every three years to ensure that communities are not spending the money in a way that does not benefit the ship and the passenger; in fact, the industry understood that as ports develop, less money would be needed, and the amount of tax would be reviewed and perhaps lessened. He opined that the cruise lines would not sue but warned that a passenger offended about improvements that did not benefit the ship may bring a class action lawsuit. Part of the goal of Alaska Act was to prevent a single community from having a head tax that presents a deterrent to the cruise lines. He acknowledged that there are legal port expenses that need to be paid by ports that have cruise ships, and the statewide head tax accomplishes that goal. He stressed the importance of the review and that the projects have been vetted by the Department of Law (DOL). The final change was that all ports receive \$5 per passenger [slide 5]. Turning to the impacts of the settlement agreement and legislation, Mr. Reeder said the cruise lines agreed to bring back more ships - passengers will number more than one million this year in Juneau - and Alaska Act believes that the state should honor its agreement. A dedicated tax on the industry will not help Alaska, and can only be used in the ports that serve the cruise ships [slide 6].

[4:51:29 PM](#)

REPRESENTATIVE JOSEPHSON observed that the state has shrunk its capital budget to the amount required to qualify for a federal match, and he said there must be great infrastructure needs in Southeast Alaska.

MR. REEDER said there were infrastructure needs that pertain to cruise ships and their passengers; however, Sitka saved its head tax money and is redoing its tender dock area, as well the visitors' center. He said Sitka does not need much else in the near-term, and other communities are the same. Mr. Reeder opined that the number of projects that qualify for head tax funds will decrease, and he again warned of a lawsuit.

REPRESENTATIVE JOSEPHSON surmised that the vulnerability of a lawsuit would still be true, given the settlement was largely based on the reduction of the tax.

MR. REEDER agreed; however, the important aspect of the settlement was the review process of the law, which ensures that the amount of the tax is appropriate to the changing needs in a port community and applies only to legal projects. He concluded that the position of Alaska Act is that the \$15 increase is not warranted, cannot be used to address the state's fiscal problem - which the visitor industry recognizes - and data proves that HB 252 will cause the loss of thousands of jobs and millions of dollars of tax revenue [slide 7].

REPRESENTATIVE KITO stated that Juneau and other ports in Southeast have infrastructure needs such as accommodations for larger vessels, and accommodations in smaller communities for more vessels; in fact, Juneau is spending a lot of money on a facility to accommodate larger vessels scheduled to arrive in the future.

MR. REEDER agreed; however, he questioned the budgeting methods of certain communities. The purpose of the tax was for communities to save over time and fund projects.

REPRESENTATIVE HUGHES asked whether the whale sculpture falls into the definition of a service, in the same manner as restrooms, under federal law.

MR. REEDER was unsure.

[5:00:54 PM](#)

CHAIR OLSON announced that HB 252 was held over.

5:01:23 PM

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:01 p.m.