

IN THE HOUSE

BY WAYS & MEANS COMM.

HOUSE BILL NO. 224

IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

TWENTY-SECOND SESSION

A BILL

For an Act entitled: "An Act to raise revenues; levying luxury taxes on transactions at retail and storage, use or consumption of certain goods and services, and admissions; providing for administration of the tax; and setting an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

Section 1. TRANSACTIONS EXEMPT. This Act shall not apply to the following transactions:

- (a) Sales for the purpose of resale of tangible personal property in its original form *or container.*
- (b) Any isolated sale of tangible personal property by one not ~~a seller~~ *engaged in the business of selling the same.*
- (c) Any isolated sale of tangible personal property by one who, ~~though a seller~~ *is engaged in the business of selling the same*, is not such a seller with respect to the article sold, but all sales by a seller shall be presumed to be a transaction.
- (d) Sales of gasoline and other motor fuels.
- (e) Sales of utility services.
- (f) Sales to the Territory or any of its agencies or political subdivisions.
- (g) Sales to the United States or any of its agencies.
- (h) Sales of cigarettes.
- (i) Sales in interstate and foreign commerce, but only

Page 1, Line 16: strike period add "or container."

Page 1, Line 18: strike words "a seller" substitute "engaged in the business of selling the same."

Page 1, Line 20: strike words "a seller" insert "engaged in the business of selling the same,"

1 in the instances and to the extent that the Territory is pro-
2 hibited from taxing such sales by the Constitution of the United
3 States.

4 (j) Sales of medicine, on prescription, sales of
5 crutches, wheelchairs for the use of cripples and invalids, and
6 when designed to be worn on the person of the purchaser or user,
7 artificial limbs, artificial eyes and artificial hearing devices,
8 sales of false teeth by a dentist and the materials used by a
9 dentist in dental treatment, sales of eyeglasses when especially
10 designed or prescribed by an ophthalmologist, oculist or optome-
11 trist, for the personal use of the owner or purchaser, and sales
12 of artificial braces and supports designed solely for the use of
13 crippled persons.

14 (k) Sales of bakery products, milk, groceries and meat
15 as food products for human consumption. For the purposes of this
16 clause: "milk" means raw milk products from domestic animals or
17 such milk when processed or canned; "groceries" means all food
18 products and all food ingredients for human consumption or for use
19 in the preparation thereof for human consumption, ordinarily sold
20 in grocery stores, except candies, confections, soft drinks,
21 tobacco or tobacco products; "meat" includes the flesh of animals,
22 fish, sea food, poultry and game.

23 (l) Sale of clothing and shoes, but not jewelry or
24 any other object not worn primarily to cover the human body
25 against nakedness or cold.

26 (m) Sales of tangible personal property which is to be
27 used in fabricating, compounding or manufacturing tangible per-
28 sonal property or in producing public utility service to be sold
29 ultimately at retail, or which is to be used in the production or

Page 2, Line 4: insert ~~period~~^{comma} after medicine; delete "on prescription"

1 delivery of public utility service.

2 (n) Sales of tangible personal property intended for
3 incorporation and incorporated into a building, road, street,
4 bridge, or other structure, ~~provided such property is so incorpora-~~
5 ~~ted pursuant to a contract entered into prior to the effective~~
6 ~~date of this Act, and provided further that the person so incor-~~
7 ~~porating such property submit to the department proof of the facts~~
8 ~~in such form as the department may require.~~

9 (o) Sales of tangible personal property intended for
10 use and used in a church for religious purposes.

11 (p) Sales of water by water companies or political
12 subdivisions.

13 Sec. 2. EXCEPTIONS: STORAGE, USE, OR CONSUMPTION. This Act
14 does not apply to "storage, use or other consumption" of the items
15 or subjects listed in Section 1 (a) through (p).

16 Sec. 3. EXCEPTIONS: CHARGES FOR SERVICES. This Act does
17 not apply to legal, medical, dental, or other health services,
18 ^{accountant, tax or other} ~~other~~ ^{lighting services,} ~~repairs~~
19 repairs of clothing or shoes, repairs of dwellings, or domestic
20 services.

21 Sec. 4. DEFINITIONS. The following words, terms and phrases
22 when used in this Act shall have the meaning ascribed to them in
23 this Section, except where the context clearly indicates a dif-
24 ferent meaning:

25 (a) "Business" means any and all activities engaged in
26 or caused to be engaged in with the object of gain or economic
27 benefit, direct or indirect.

28 (b) "Department" means the Department of Taxation of
29 this Territory.

30 (c) "Commissioner" means the Tax Commissioner.

Page 3, line 4: after word structure and comma strike out the remainder of the lines 4, 5, 6, 7, 8.

Page 3, after line 12 add new subsection: "(q) Sales of transportation on all common carriers."

Page 3, Line 12: after subsection (q) add new subsection as follows:
(r) Rental paid for dwellings or homes, except hotel rentals.

Page 3, Line 12: after subsection (p) add new section as follows:
(s) Sales of motor vehicles, except automobiles used solely for personal and family use and not for business purposes.

Page 3, Line 17: after "health services" insert "accountant, tax or other consulting service,"

Page 3, Line 18: after the word "shoes," insert the words "lighterage services,"

1 (d) "Sale price" means the amount received in money,
2 credits or intangible property from transactions, without deduc-
3 tion on account of the cost of property sold, amounts paid for
4 interest, discounts, leases or any other expenses or burdens what-
5 ever. In computing sale price, there may be deducted any credit
6 actually given or allowance actually made for any tangible per-
7 sonal property actually taken in trade or exchange for the whole
8 or any part of the sale price of the property sold.

9 (e) "Person" means any natural person, firm, partner-
10 ship, association, corporation, fiduciary, or other entity, carry-
11 ing on business. Whenever used in any provision of this Act which
12 proscribes or imposes a fine or imprisonment or both, the term
13 "person," as applied to a firm, partnership or association, shall
14 include the members thereof, and, as applied to a corporation,
15 the officers thereof. A firm, partnership, association or cor-
16 poration may be subjected as an entity, however, to the payment
17 of a fine.

18 (f) "Purchaser" means any person who purchases tangible
19 personal property or services or admissions in any transaction
20 taxable under this Act.

21 (g) "Storage" means any keeping or retention in this
22 Territory for use or other consumption in this Territory, except
23 as hereinafter provided.

24 (h) "Use" means the exercise of any right or power
25 incidental to ownership.

26 (i) "Consumer" means the person who has purchased tan-
27 gible personal property or received the benefit of taxable ser-
28 vices or admissions for storage, use, or consumption in this
29 Territory.

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(j) "Seller" means any person engaged in the business of selling tangible personal property, services, or admissions at retail, and it shall be immaterial whether the goods or services sold are or are not manufactured, produced, or provided by the seller.

(k) "Ultimate consumer" as referring to any tangible personal property, means any person who uses or consumes such tangible personal property.

(l) "Wholesale dealer" means any person engaged in the business of selling tangible personal property to retail dealers for resale only and not for personal use or consumption.

(m) "Seller maintaining a place of business in this Territory" means any seller having or maintaining within this Territory, directly or through a subsidiary, an office, distribution house, saleshouse, warehouse, or other place of business, or any agent operating within this Territory under the authority of the Seller or its subsidiary, irrespective of whether such place of business or agent is located permanently or temporarily in this Territory or whether such seller or subsidiary is authorized to do business within this Territory.

(n) "Transaction" means any sale at retail by which the ownership of tangible personal property is transferred for a consideration, when such transfer is made in the ordinary course of the transferor's business and is made to the transferee for consumption or use. "Transaction" includes any rental, bailment lease, conditional sale and any other transaction, ^{involving tangible personal property} under whatever name or form, whereby title being retained for security is ultimately to pass to the purchaser or whereby possession is transferred in lieu of a transfer of title. "Transaction" includes

Page 5, Line 26: after the word "transaction" insert the words as follows: "involving tangible personal property"

1 charges for services or admissions, amusements and dues.

2 (o) "Admissions, amusements and dues" mean the amount
3 paid for admission to any place, including admission by season
4 ticket or subscription, whether sold at or outside such place or
5 other places than the ticket office of such place; and amounts
6 paid for admission, refreshment, service, or merchandise at any
7 cabaret, or other similar place furnishing a public performance
8 for profit; and the amount paid as dues or initiation or member-
9 ship fees to any social, athletic, or sporting club or organiza-
10 tion, if the dues or fees of an active resident annual member are
11 in excess of ten dollars per year; except admissions and dues the
12 proceeds of which inure to the benefit of religious, educational,
13 or charitable institutions, or any governmental unit, or any civic
14 community, veterans' or military organization or society if no
15 part of the net proceeds inures to the benefit of any stockholders
16 or members of such organization or association.

17 (p) "Cabaret or other similar place" means any room in
18 a hotel, restaurant, hall, or other public place where music and
19 dancing privileges or any other entertainment, except instrumental
20 or mechanical music alone, are afforded the patrons in connection
21 with the selling of food, refreshment, or merchandise.

22 (q) "Performance for profit" includes any performance
23 even though the charge made for admission, refreshment, service,
24 or merchandise is not increased by reason of the furnishing of
25 such performance.

26 **Sec. 5. IMPOSITION OF TAXES.** (a) There is hereby imposed
27 a tax on all transactions at the rate of five (5%) percent of the
28 sale price.

29 (b) There is hereby imposed a tax on the storage, use

1 or consumption in this Territory at the rate of five (5%) percent
2 of the purchase price of tangible personal property purchased for
3 storage, use or other consumption in this Territory, and upon
4 which the tax imposed by Section 5 (a) has not been paid.

5 Sec. 6. PAYMENT: BY WHOM. (a) Every seller maintaining a
6 place of business in this Territory and making sales of tangible
7 personal property, services, admissions, amusements, and dues for
8 storage, use or other consumption in this Territory, and not for
9 resale, if not otherwise exempted, shall, at the time of making
10 the sales or, if the storage, use or consumption is not then tax-
11 able hereunder, at the time the storage, use or other consumption
12 becomes taxable, collect the tax from the consumer.

13 (b) Each consumer who causes tangible personal property
14 to be brought into this Territory for storage, use or consumption
15 and not for resale, shall be liable for the tax imposed by this
16 Act and such liability shall not be extinguished until the tax has
17 been paid to this Territory. It shall be presumed that tangible
18 personal property purchased on or after the effective date of this
19 Act by any person for delivery in this Territory is purchased for
20 storage, use or other consumption in this Territory.

21 (c) Each person performing taxable personal services
22 for hire or reward shall be liable for payment of the taxes imposed
23 by this Act upon such personal services.

24 (d) Each person selling or making charges for admis-
25 sions, amusements or dues shall be liable for the payment of the
26 taxes on such admissions, amusements, or dues.

27 Sec. 7. SELLER'S REGISTRATION. Every seller maintaining a
28 place of business in this Territory and making sales at retail, if
29 not otherwise exempted, shall register with the department and

1 give the name and address of all agents operating in this Terri-
2 tory and such other information as the department may require.

3 Sec. 8. RETURNS AND PAYMENT. (a) The taxes imposed by
4 this Act shall be due and payable on or before the twentieth day
5 of November, February, May and August, for the periods ending the
6 last day of October, January, April and July, respectively, during
7 which the transactions subject to the tax were made.

8 (b) Each taxpayer shall, on or before the twentieth
9 day of November, February, May and August, make out and sign a
10 return for the preceding quarter. Such return shall be mailed or
11 delivered to the department in time so that it will reach the
12 department, in the ordinary course of the mails, on or before the
13 twentieth day of the month succeeding the quarter during which
14 the transactions have been made. The return shall be on a form
15 prescribed by the department and shall show: (1) The total gross
16 proceeds of the business of the taxpayer for the period with res-
17 spect to which the return is filed, or, in the case of a consumer,
18 the price of each such purchase for which a tax is due and payable
19 (2) the amount of transactions of such business with respect to
20 which the tax is computed, or, in the case of a consumer, the
21 price for which the item was purchased; (3) the amount of tax
22 due; (4) such other information with respect to the business, or
23 purchase, the amount of transactions or related matters as the
24 department may reasonably require.

25 (c) Any return may be signed by a duly authorized
26 agent of the taxpayer with the same effect as if signed by the
27 taxpayer himself.

28 (d) Any person making a false return shall be guilty of
29 perjury to the same extent as though the return had been sworn to.

1 (a) A remittance for the amount of the tax shall accom-
2 pany each return.

3 Sec. 9. TAXES: WHEN DUE. The tax shall, without assessment
4 or notice by the Commissioner, be due and payable at the time
5 fixed for filing the return. If the tax is not paid when due
6 there shall be added as part of the tax interest at the rate of
7 six percent per annum from the time when the tax became due until
8 paid.

9 Sec. 10. CREDITS AND REFUNDS. A credit against taxes im-
10 posed under this Act, or a refund, may be allowed with respect to
11 any item, when the price on which the tax is based is readjusted
12 by reason of return or repossession of the article, or by a bona
13 fide discount, rebato, or allowance, in the amount of that part of
14 the tax proportionate to the part of the price which is refunded
15 or credited. No overpayment shall be credited or refunded unless
16 the person who paid the tax establishes that he has not included
17 the tax in the price of the article with respect to which it was
18 imposed or collected the amount of tax from the purchaser; or that
19 he has repaid the amount of the tax to the purchaser of the
20 article; or unless he files with the Commissioner written consent
21 of such purchaser to the allowance of the credit or refund.

22 Sec. 11. EXAMINATION OF BOOKS. The Tax Commissioner, for
23 the purpose of ascertaining the correctness of any return, is
24 authorized to examine personally, or by agent, any books, papers,
25 records, or memoranda bearing upon the matters required to be
26 included in the return, and may require the attendance of the
27 person rendering the return or any officer or employee of such
28 person, or the attendance of any other person having knowledge in
29 the premises, and may take his testimony with reference to the

1 matter required by law to be included in such return, with power
2 to administer oaths to such person or persons.

3 **Sec. 12. PENALTY: FAILURE TO FILE.** In case of any failure
4 to make and file a return or list within the time prescribed by
5 law, the Commissioner shall add to the tax, five percent of its
6 amount per month not to exceed 25 percent in the aggregate, except
7 that when a return is filed after such time and it is shown that
8 the failure to file it was due to a reasonable cause and not to
9 wilful neglect, no such addition shall be made to the tax. The
10 amount so added shall be collected at the same time and in the
11 same manner and as part of the tax.

12 **Sec. 13. FALSE FILING: MISDEMEANOR.** Any person who fails to
13 file a return, or who files, or causes to be filed, a false or
14 fraudulent return, with the intent to evade payment of any tax
15 imposed by this Act, is guilty of a misdemeanor, and upon conviction
16 shall be fined not more than \$1,000, or imprisoned not more
17 than one year, or both such fine and imprisonment; and each such
18 failure, or false filing, shall constitute a separate offense.

19 **Sec. 14. TAX LIEN.** If any person liable to pay the taxes
20 herein imposed neglects or refuses to pay the same after demand,
21 the amount, including interest, penalties, or addition to such
22 tax, together with any costs that may accrue in addition thereto
23 shall be a lien in favor of the Territory upon all property and
24 rights of property, whether real or personal, belonging to such
25 person, until the amount is satisfied.

26 **Sec. 15. ENFORCEMENT OF LIEN.** In any case where there has
27 been a refusal or neglect to pay any tax the Attorney General at
28 the request of the Tax Commissioner may direct a civil action to
29 be filed, in the district court of Alaska, to enforce the lien

1 for taxes, penalties, and interest upon any property and rights
2 to property, whether real or personal, or to subject any such
3 property and rights to property owned by the delinquent, or in
4 which he has any right, title, or interest, to the payment of such
5 taxes, penalties, and interest, together with any costs of such
6 proceedings.

7 Sec. 16. RULES AND REGULATIONS. The Commissioner shall pre-
8 scribe and publish all needful rules and regulations for the en-
9 forcement of this Act. Such rules and regulations shall be sub-
10 mitted, before publication, to the Attorney General, who shall
11 determine whether such rules and regulations have been prescribed
12 in compliance with the requirements of and powers conferred by
13 this Act.

14 Sec. 17. DEPOSIT IN GENERAL FUND. The Tax Commissioner shall
15 deposit all moneys accruing from the imposition of the taxes
16 herein, at least once each quarter, in the General Fund of the
17 Territorial Treasury.

18 Sec. 18. EFFECTIVE DATE. This Act shall take effect and
19 be in force from and after July 1, 1955.
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