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COMMITTEE REPORT

HOUSE

4/14
Rulee

FURTHER:

(7)

4/5/82

Date: April 14, 1982

Mr. Speaker:

The Committee on Transportation has had SB 824 am

"An Act relating to sale and delivery of in-bond merchandise at international airports; and providing for an effective date."

under consideration and reports it back as follows:

- do pass [] do not pass
- [] do pass with attached amendments(s)
- [] replace with CS for _____ [] same title
[] new title
- and recommends _____
- AND attaches a "Letter of Intent" [] New Fiscal Note
- reports it back with ^{independent} ~~out~~ recommendation
- [] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Betty Cant
Mark Alford
Paul Kilgall
John Stigler
John DeLuca

Betty Cant
 CHAIRMAN

de

HOUSE TRANSPORTATION COMMITTEE

COMMITTEE REPORT - CS SB 824

The Transportation Committee has considered CS SB 824, relating to the establishment and operation of in bond merchandise businesses at state owned and operated international airports. The purpose of this report is to express the Committee's understanding of the purposes of the bill and to make clear the Committee's intent with regard to certain aspects of the bill.

In bond merchandise, which includes merchandise of foreign origin (not manufactured in the United States) and United States alcoholic beverages and tobacco products handled in bond, is sold to foreign-bound passengers. For a number of years, the state has entered into exclusive contracts authorizing the establishment and operation of an in bond merchandise business at each of the state's international airports. These exclusive contracts have been extremely beneficial to the state by providing substantial revenue to the state, increasing employment in the state, and aiding the tourism industry, while at the same time facilitating the orderly administration of the state's international airports. For the reasons stated in Section 1 of the bill and elaborated upon by the official of the Department of Transportation and Public Facilities who testified before the Committee in support of the bill, the Committee believes that conferring exclusive rights for the establishment and

operation of an in bond merchandise business at each international airport is good state policy.

Recently, legal questions have been raised concerning the granting of exclusive in bond contracts. This bill is designed to resolve all legal questions once and for all with regard to all existing and future exclusive in bond contracts. In particular, CS SB 824 is designed to ensure that "state action" immunity from the operation of the federal antitrust laws [see, California Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc., 445 U.S. 97 (1980)] exists with regard to the establishment and operation of in bond merchandise businesses at international airports in the State of Alaska, including the conferral of exclusive rights in this field. Thus, the bill clearly and affirmatively states that it is the policy of the State of Alaska that only an exclusive contractor be allowed to offer to sell, sell and deliver in bond merchandise at each international airport, and that the Department of Transportation and Public Facilities may not permit, nor confer any right upon, any person other than the exclusive contractor to offer to sell, sell or deliver in bond merchandise at an international airport. In addition, the bill requires the issuance of exclusive in bond contractors in the future, and requires that the Department actively supervise the operations under each exclusive in bond contract. CS SB 824 is also specifically intended to, and does, provide an express immunity and exemption for the activities required under this bill from the operation of Alaska's antitrust laws,

AS 45.50.562 et. seq., and any other applicable state laws that would otherwise affect the validity of those activities. See e.g., Section 1(e) of the bill. By providing these immunities, CS SB 824 will enable in bond merchandise sales in Alaska to continue to be maximized, thereby maximizing the state's revenue from this source and providing the other substantial benefits described above.

The Committee also intends that the exclusivity mandated under Section 2 of this bill encompasses, with one limited exception, every aspect of the establishment and operation of an in bond merchandise business at an international airport. That limited exception is for the delivery of in bond merchandise as cargo to airlines. For purposes of this bill, cargo has been specifically defined. As defined in Section 4 of the bill, cargo is intended to have four characteristics. First, cargo is carried by an airline in return for payments made by the shipper to the airline, which payments are computed by reference to a specific cargo tariff; in contrast, the carriage of baggage is included in the price of a passenger ticket (with any additional charges computed on the basis of the excess number of pieces of baggage, or the excess weight of baggage, to be carried, according to an excess baggage schedule). Second, cargo is carried under an airway bill, rather than under a passenger ticket. The portion of the definition of cargo that refers to goods carried "under an agreement between the shipper and the airline other than a passenger ticket" is intended to require both of these

characteristics. Third, cargo is accepted, carried and handled at facilities, and under procedures, different from those used for baggage. Finally, cargo is delivered by the airline at the destination airport to a facility (e.g., an air cargo terminal) separate from that which receives baggage to be delivered to deplaning passengers, and is not brought to a baggage claim area, but must be picked up by the consignee at the facility described above. For a delivery to qualify as cargo, it must satisfy all of these criteria.

Dated April 14, 1982

Bette Cato
Representative Cato
Chairman

Will Hood
Representative

Alvin Mier
Representative

Ray H. [unclear]
Representative

John Duncan
Representative

Representative

Representative

AMENDED TITLE: SB 824AM
 AN ACT RELATING TO SALE AND DELIVERY OF IN-BOND MERCHANDISE
 AT INTERNATIONAL AIRPORTS;
 AND PROVIDING FOR AN EFFECTIVE DATE:

PRIME SPONSOR: SENATE RULES COMMITTEE.
 CO-SPONSORS:
 CURRENT STATUS: 4/05/82 IN (H) TRANSPORTAT

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/02/82	01	0422	FIRST READING -- COMMITTEE REPORTS
03/02/82	02	0423	GOV TRANSMITTAL LETTER
03/02/82	03	0422	F/NOTE EQUALS ZERO SEN SUPPL #13
03/19/82	04	0620	TRAN -- DF01, NR03
03/19/82	05	0626	MOVED FROM FIN TO RLS BY UNAN CONSENT
04/05/82	06	0790	RLS -- OTHER03 TAKEN UP IMMEDIATELY
04/05/82	07	0792	SECOND READING
04/05/82	08	0792	AM01 ADOPTED BY UNAN CONSENT
04/05/82	09	0792	ADVANCED TO 3RD READING BY UNAN CONSENT
04/05/82	10	0792	*THIRD READING
04/05/82	11	0793	PASSED BY DIV 15-01-04
04/05/82	12	0793	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	*** ** *

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/05/82	13	1067	FIRST READING -- COMMITTEE REPORTS TRANSPORTATION RULES
****	**	**	*** ** *



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 2, 1982

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the sale and delivery of in-bond or duty-free merchandise at state international airports.

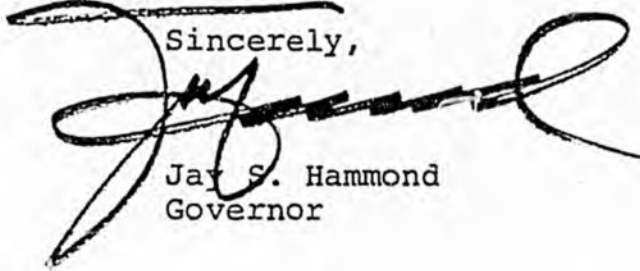
As you may know, for years the state has entered into exclusive contracts which grant the privilege of using commercial space at state-owned and -operated international airports for the sale and delivery of duty-free merchandise to foreign-bound passengers. Under these contracts, the state receives substantial revenues for the International Airport Revenue Fund. Last year, for example, the fund received approximately \$5,300,000 from these contract payments. If this source of revenue is diminished, the lost revenues will have to be made up from other sources, such as increased landing fees and fuel flowage fees which would be passed on by the airlines to passengers in the form of higher fares. The obvious detrimental effects of these increases on Alaska's tourism industry could be serious.

Recently, legal questions have been raised concerning the granting of these exclusive contracts. Decisions from the United States Supreme Court and from other courts indicate that these legal questions can be resolved through state legislation that (1) makes it clear that the granting of exclusive contracts furthers an important state policy, and (2) provides a level of oversight by the state on the activity performed under the exclusive contracts.

This bill includes legislative findings that clearly express the important state benefits that are fostered through exclusive contracts for the sale and delivery of duty-free merchandise. Additionally, the bill directs that the Department of Transportation and Public Facilities shall grant exclusive contracts for the sale and delivery of duty-free merchandise at state international airports. The bill also provides guidelines for the department's oversight of the contractors' activities.

Since I am in favor of fostering competition, in this particular instance I am convinced that exclusive contracting is clearly in the best interests of the state only after competitive bidding. This bill will resolve once and for all any legal questions surrounding the state's granting of exclusive contracts for in-bond merchandise at airports.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Jay S. Hammond', is written over the typed name and title.

Jay S. Hammond
Governor

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB

Title Relating to sale & delivery of in-bond merchandise at intern'l airports

Requested by _____ Date 3/1/82

II. FISCAL DETAIL

Agency Affected Department of Transportation & Public Facilities

Program Category Affected International Airports, Fairbanks & Anchorage

BRU, Program, Or Subprogram(s) Affected _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-					

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The passage of this bill will not increase any operating expenses of the airport. Should the bill fail to become law the International Airport Revenue Fund will see a significant decrease in revenues. In FY 81 the fund received approximately \$5.3 million from the in-bond duty free concession.

IV. DATE March 1, 1982

PREPARED BY Bert Wadon

AGENCY DOT/DF

Original: Legislative Finance

PHONE 465-3900